

NOV 16 1994

OFFICE OF THE CLERK

In The
Supreme Court of the United States

October Term, 1994

CINDA SANDIN, *Unit Team Manager,*
Halawa Correctional Facility,

Petitioner,

vs.

DeMONT R.D. CONNER, *et al.,*

Respondents.

On Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

JOINT APPENDIX
VOLUME I, PAGES 1 TO 194

PAUL L. HOFFMAN*
*Counsel of Record
100 Wilshire Blvd.
Suite 1000
Santa Monica, California
90401
(310) 260-9585

Counsel for Respondent
DeMont R.D. Conner

ROBERT A. MARKS
Attorney General
State of Hawaii

STEVEN S. MICHAELS**
KATHLEEN M. SATO
Deputy Attorneys General
State of Hawaii

**Counsel of Record
Department of the
Attorney General
State of Hawaii
425 Queen Street
Honolulu, Hawaii 96813
(808) 586-1360

Counsel for Petitioner
Cinda Sandin, Unit Team
Manager, Halawa
Correctional Facility

Petition For Certiorari Filed May 26, 1994
Certiorari Granted October 7, 1994

1997

TABLE OF CONTENTS*

Page:

Volume I	
Relevant Docket Entries	1
United States District Court	1
United States Court of Appeals	16
Complaint (Civ. No. 88-00169) (filed Mar. 14, 1988)	20
Order Granting In Forma Pauperis Application (Civ. No. 88-00169) (filed Apr. 11, 1988)	25
Motion for Leave to File Amended Complaint and Amended Complaint (Civ. No. 88-0169) (filed May 3, 1988)	27
Answer to Amended Complaint (Civ. No. 88-00169) (filed May 23, 1988)	30
Plaintiff's Brief in Support of Complaint and Amended Complaint, together with Affidavit of Demont R.D. Conner In Support of Brief (Civ. No. 88-00169) (filed June 22, 1988)	32
Order Granting Writ of Habeas Corpus Ad Testificandum	43
Affidavit of Cinda Sandin, together with Exhibits "C"- "E" (Exhibits "A"- "B" reprinted at Pet. App. "G") (Civ. No. 88-0169) (filed Aug. 8, 1988)	45
Plaintiff's Memorandum in Reply to Defendant's Opposition to Plaintiff's Motion for a Preliminary Injunction (excerpts) (Civ. No. 88-0169) (filed Aug. 18, 1988)	56

* Entries marked with an asterisk (*) are included in the appendix to the Petition for Certiorari ("Pet. App.").

TABLE OF CONTENTS - Continued

	Page:
Report Recommending Partial Granting of Motion for Preliminary Injunction (Civ. No. 88-00169) (filed Sept. 6, 1988).....	61
Order Adopting Magistrate's Report Recommending Partial Granting of Motion for Preliminary Injunction (Civ. No. 89-00169) (filed Dec. 2, 1988).....	66
Affidavit of Demont R.D. Conner (Civ. No. 88-00169) (filed Feb. 7, 1989)	72
Affidavit of Demont R.D. Conner (Civ. No. 88-00169) (filed Feb. 25, 1989)	76
Affidavit of Demont R.D. Conner (Civ. No. 88-00169) (filed Mar. 3, 1989).....	79
Affidavit of Demont R.D. Conner (Civ. No. 88-00169) (filed Mar. 8, 1989).....	81
Affidavit of Demont R.D. Conner (Civ. No. 88-00169) (filed Apr. 6, 1989)	87
Order Regarding Various Motions and Trial Setting (Civ. No. 88-00169) (filed May 26, 1989)	96
Exhibits "06"- "14," "36," "60"- "61" to Plaintiff's Reply Memorandum to Defendants Memorandum in Opposition to Plaintiff's Motion for Preliminary Injunction (Civ. No. 88-00169) (filed July 6, 1989).....	101
Amended Complaint (Civ. No. 88-00169) (filed Sept. 8, 1989)	169
Order Regarding Plaintiff's Discovery Requests and Other Matters (Civ. No. 88-00169) (filed Nov. 7, 1989).....	191
Answer to Amended Complaint (Civ. No. 88-00169) (filed Nov. 7, 1989).....	193

TABLE OF CONTENTS - Continued

	Page:
Volume II	
Motion for Summary Judgment, together with Notice, and Memorandum in Support of Motion (excerpts), and Exhibits "A"- "C," "F," and "K" (partial) (other parts of Exhibit "K" reprinted at Pet. App. "G") (Civ. No. 88-0169) (filed Nov. 20, 1989).....	195
Opposition to Defendants' Motion for Summary Judgment with Cross-Motion for Summary Judgment, together with Memorandum in Support (excerpts), Affidavit of Demont R.D. Conner, and Exhibits "A," "D," and "G" (Civ. No. 88-00169) (filed Jan. 8, 1990).....	250
Declarations of Janice Neilson, Shelly Nobriga, Cinda Sandin, Davis Ho, Carl Zuttmeister, together with Exhibit "J" (Civil No. 88-00169) (filed Sept. 24, 1990).....	300
Order Adopting Magistrate's Report and Recommendation, together with attached Report and Recommendation (Civ. No. 88-0169) (filed May 15, 1991).....	317
Report and Recommendation Granting Defendants' Motion for Summary Judgment (Civ. No. 88-0169) (filed May 21, 1991).....	325
Objections to Magistrate's Report and Recommendation (Civ. No. 88-0169) (filed June 18, 1991).....	353
Order Adopting Magistrate's Report and Recommendation Granting Defendants' Motion for Summary Judgment (Civ. No. 88-0169) (filed Sept. 30, 1991).....*	Pet. App. A21

* Entries marked with an asterisk (*) are included in the appendix to the Petition for Certiorari ("Pet. App.").

TABLE OF CONTENTS - Continued

	Page:
Judgment in a Civil Case (Civ. No. 88-0169) (filed Sept. 30, 1991).....	*Pet. App. A39
Amended Opinion (C.A. No. 91-16704) (9th Cir. filed Feb. 2, 1994)	*Pet. App. A1
Order Denying Petition for Rehearing and Rejecting Suggestion of the Appropriateness of Hearing En Banc (C.A. No. 91-16704) (9th Cir. filed Feb. 25, 1994)	*Pet. App. A40
Mandate (C.A. No. 91-16704) (9th Cir. Mar. 25, 1994).....	*Pet. App. A20

DOCKET ENTRIES CIV. 88-169 (D. Haw.)

DATE	NR.	PROCEEDINGS
<u>1988</u>		
Mar 14	1	COMPLAINT (42 U.S.C. § 1983)
	2	Application to Proceed in Forma Pauperis, Supporting Documentation and Order - Referred to Tokairin
Apr 11	3	ORDER Granting In Forma Pauperis Application cc: all parties of record TOKAIRIN
	14	Summons in a Civil Action Summons issued
	19	Summons in a Civil Action Summons Issued
	28	Return of Service - served Cinda Sandin thru cert mail. RRR 4-27-88
	7	Petition for Writ of Habeas Corpus; Access to Law Library - referred to Conklin
May 3	8	Process Receipt and Return - Served Civil Action to Defendant Oku on 4/26/88 by certified Mail RRR: 4/27/88
	9	AMENDED COMPLAINT
	10	Motion for Temporary Restraining Order and/or Preliminary Injunction; Brief in Support of Plaintiff's Motion for Temporary Restraining Order and/or Preliminary Injunction - On Behalf of Plaintiff - Referred to Tokairin

11 Petition for Writ of Habeas Corpus ad Testificandum; Order Granting Writ - On Behalf of Plaintiff - Referred to Tokairin

6 12 Return of Service - served Theodore Sakai on 5-4-88

10 13 Summons in a Civil Action Summons Issued

14 Summons in a Civil Action Summons Issued

15 Summons in a Civil Action Summons Issued

23 16 ANSWER to Amended Complaint; Certificate of Service - On Behalf of Defendants

Jun 14 17 Return of Service - served Leonard Gansalves thru Harold Falk on 5-31-88

18 Return of Service - served Harold Falk on 5-31-88

19 Return of Service - served Lawrence Shohet thru Harold Falk on 5-31-88

15 20 Certificate of Service on behalf of pltf

21 Petition for Writ of Habeas Corpus for Temporary Restraining Order and/or Preliminary Injunction; Order; Certificate of Service on behalf of pltf - referred to Tokairin

22 Plaintiffs Brief in Support of Complaint and Amended Complaint; Affidavit of DeMont R.D. Conner in Support of Plaintiffs Brief in Support of Complaint and Amended Complaint; Certificate of Service - referred to Tokairin

21 23 Letter from pltf - referred to Tokairin

Jul 21 24 ORDER Granting Writ of Habeas Corpus Ad Testificandum - the Motion for Preliminary Injunction set for 8/26/88 @2:00 Tokairin - cc: all counsel **TOKAIRIN**

25 25 ORDER from 9th CCA - petition for writ of mandamus is ordered filed without prepayment of fees and is hereby DENIED cc: all parties of record

Aug 8 26 Memorandum in Opposition to Plaintiff's Motion for a Preliminary Injunction; Exhibit "A": Affidavit of Cinda Sandin; Certificate of Service - On Behalf of Defendants

18 27 Plaintiff's Memorandum in Reply to Defendants Opposition to Plaintiffs Motion for a Preliminary Injunction; Certificate of Service

24 28 Writ of Habeas Corpus Ad Testificandum - Plaintiff to appear on 8/26/88 @ 2:00 p.m. Tokairin - cc: all counsel - warrant Issued **TOKAIRIN**

26 EP: Motion for a Preliminary Injunction - GRANTED in part and DENIED IN PART (No Court Reporter) **TOKAIRIN**

Sep 6 29 Report Recommending Partial Granting of Motion for Preliminary Injunction - court recommends that the motion for preliminary injunction be granted in part and denied in part to give Conner the access to courts in the manner that has been adopted by the courts in this district cc: all parties of record **TOKAIRIN**

13	30	Plaintiff's Proposed Order for Preliminary Injunction; Affidavit of DeMont R.D. Conner; Certificate of Service
	31	Motion for Reconsideration of in Part Denial of Plaintiff's Preliminary Injunction; Affidavit of DeMont R.D. Conner; Certificate of Service - On Behalf of Plaintiff - Referred to Tokairin
19	32	Plaintiff's Objection to Magistrate's Report Recommendation; Certificate of Service - Referred to Kay
26	33	Ex Parte Motion for Temporary Restraining Order - referred to Tokairin
	34	Motion for Temporary Restraining Order; Affidavit of DeMont R.D. Conner; Certificate of Service - referred to Tokairin
Nov 8	35	Motion for Leave to File an Amended Complaint - On Behalf of Plaintiff - Referred to Tokairin
Dec 2	36	ORDER Adopting Magistrate's Report Recommending Partial Granting of Motion for Preliminary Injunction of September 6, 1988 cc: all parties of record KAY
<u>1989</u>		
Jan 3	37	Motion to Compel Production of Documents and Answer Plaintiff's First Set of Interrogatories - referred to Tokairin
Feb 2	38	Motion for Ordering of a Pre Trial Scheduling conference; Certificate of Service On Behalf of Plaintiff - Referred to Tokairin
7	39	Motion for Order to Show Cause on alleged Contempt for Violation of Preliminary Injunction; Affidavit of DeMont R.D.

		Conner; Certificate of Service - On Behalf of Plaintiff - referred to Tokairin
	40	Affidavit of DeMont R.D. Conner - on behalf of Plaintiff - referred to Tokairin
8	41	Motion for Extension of Time; Affidavit of DeMont R.D. Conner; Certificate of Service on behalf of Plaintiff - referred to Tokairin
15	42	Motion for Leave to File an Amended Complaint; Amended Complaint; Certificate of Service
16	43	Motion for Temporary Restraining Order and/or Preliminary Injunction; Brief in Support of Motion; Affidavit of DeMont R.D. Conner; Exhibits "2 thru "; Certificate of Service - On Behalf of Plaintiff - Referred to Tokairin
Feb 23	44	Motion for a Preliminary Injunction; Memorandum of Law; Affidavit of DeMont R.D. Conner; Certificate of Service
24	45	Motion for Preliminary Injunction; Memorandum of Law; Affidavit of DeMont R.D. Conner; Certificate of Service - referred to Tokairin
Mar 3	46	Motion for a Preliminary Injunction; Memorandum of Law; Affidavit of DeMont R.D. Conner; Certificate of Service
	47	Motion for a Preliminary Injunction; Memorandum of Law; Affidavit of DeMont R.D. Conner; Certificate of Service

- 8 48 Motion for an Order to Show Cause; Affidavit of DeMont R.D. Connor - On Behalf of Plaintiff - Referred to
- 49 Motion for a Preliminary Injunction; Memorandum of Law; Affidavit of DeMont R.D. Conner; Exhibits "a to b"; Certificate of Service - On Behalf of Plaintiff - Referred to Tokairin
- 21 50 Notice of Motion to Modify Preliminary Injunction; Motion to Modify Preliminary Injunction; Memorandum in Support of Motion to Modify Preliminary Injunction; Exhibits "A"-and "B"; Certificate of Service - 3/30/89 @ 9:00 a.m. Kay On Behalf of Defendants
- 51 Ex Parte Motion for Order Shortening Time for Hearing on Defendants' Motion to Modify Preliminary Injunction; ORDER Shortening Time for Hearing on Defendants' Motion to Modify Preliminary Injunction - On Behalf of Defendants KAY
- 22 52 Certificate of Service - On Behalf of Plaintiff
- 30 EP: Defendant's Motion to Modify the Preliminary Injunction Order is GRANTED. The court will modify the injunction by allowing Defendant to maintain in his cell two legal materials and four inches of legal papers. Defendant's witness: Cinda Sandin CST (YI) KAY
- Apr 6 53 Motion for a Preliminary Injunction; Memorandum of Law; Affidavit of DeMont R.D. Conner; Certificate of Service - referred to Tokairin

- 13 54 Motion for Preliminary Injunction; Memorandum of Law; Affidavit of DeMont R.D. Connor; Certificate of Service - referred to Tokairin
- May 2 55 Amended Notice of Preliminary Injunctions; Affidavit of DeMont R.D. Conner; Certificate of Service; Page (4) - On Behalf of Plaintiff - Referred to Tokairin
- 26 56 ORDER Regarding Various Motions and Trial Setting - Motion to Amend the Complaint is GRANTED. Motion to Compel Discovery is DENIED without Prejudice. Non Jury Trial 2/8/90 @ 9:00. Motions filed, Discovery noticed 11/20/89. Pre Trial statements 12/21/89. Final Pre Trial 1/7/90 @ 9:00 a.m. Disclose names and addresses of Expert Witnesses Plaintiff 9/6/89, Defendant 9/13/89. Simultaneous exchange of experts reports 10/9/89. Deposition of expert witnesses 10/31/89. - cc: all counsel TOKAIRIN
- Jun 23 57 Memorandum in Opposition to Plaintiff's Motion for a Preliminary Injunction; Exhibit "A"; Certificate of Service - on behalf of Defendants
- Jul 6 58 Plaintiff's Reply Memorandum to Defendants Memorandum in Opposition to Plaintiff's Motion for Preliminary Injunction; Affidavit of DeMont R.D. Conner; Exhibits "o1" thru "61"; Certificate of Service
- Aug 17 59 Motion for an Order to Show Cause why the Defendants Should Not Be Held in Contempt for Violating Paragraph "B" of Page 4 of the Preliminary Injunction Filed

December 2, 1988; Affidavit of DeMont R.D. Conner; Affidavit of Terry Smith; Exhibits "A" thru "K"; Certificate of Service - On Behalf of Plaintiff Referred to Kay

Sep 8 60 AMENDED COMPLAINT cc: pltf for service to USM
 9 61 Summons in a Civil Case Summons issued
 13 62 Motion to Compel Answer to Interrogatories and Production of Documents; Memorandum of Law; Exhibits "A" thru "B"; Certificate of Service - On Behalf of Plaintiff - Referred to Tokairin
 14 63 ORDER of Designation to a Magistrate - as to Plaintiff's Motion for Order to Show Cause Why Defendants Should Not Be held in Contempt for violating page 4 ¶ B of Preliminary Injunction filed 12/2/88 filed on 8/17/89 - cc: all counsel KAY
 18 64 ORDER Regarding Response Date for Defendants to File Their Responsive Memorandum to Plaintiff's Motion to Compel Answers to Interrogatories and Production of Documents - on or before October 13, 1989 cc: All parties of record CONCKLIN
 Oct 12 65 Memorandum in Opposition to Motion for an Order Compelling Discovery; Exhibit A; Certificate of Service on behalf of defts
 16 66 Letter - dated October 3, 1989 to Magistrate Tokairin - on behalf of Tokairin
 31 67 Process Receipt and Return - Served Complaint to William Summers on 10/17/89

68 Process Receipt and Return - Served Complaint to William Paaga on 10/15/89
 69 Process Receipt and Return - Served Complaint to Leonard Gonsalves on 10/13/89
 70 Process Receipt and Return - Served Complaint to Kim Marie Thorburn M.D. On 10/12/89
 71 Process Receipt and Return - Served Complaint to Francis Sequeira thru supervisor on 10/12/89
 72 Process Receipt and Return - Served Complaint to Harold Falk thru secretary on 10/13/89
 73 Process Receipt and Return - Served Complaint to Dept of Corrections - Mr. Harold Falk thru secretary on 10/13/89
 74 Process Receipt and Return - Served Complaint to William Oku thru administrator on 10/17/89
 75 Process Receipt and Return - Served Complaint to Cinda Sandin on 10/24/89
 76 Process Receipt and Return - Served Complaint to Gordon Furtado on 10/16/89
 Oct 31 77 Process Receipt and Return - Served Complaint to Robert Johnson on 10/23/89
 78 Process Receipt and Return - Served Complaint to Theodore Saki on 10/23/89
 79 Process Receipt and Return - Served Complaint to Abraham Lota on 10/16/89
 Nov 2 80 Notice - Final Pre Trial reset from 1/7/90 to 1/5/90 @ 9:00 a.m. Tokairin. Non Jury

Trial reset from 2/8/90 to 2/6/90 @ 9:00
 Kay - cc: all counsel

7 81 ORDER Regarding Plaintiff's Discovery
 Requests and Other Matters - Defendants
 to file a response to Plaintiff's Motion for
 OSC by 11/27/89. Defendants to file
 answer to interrogatories or their motion
 by 11/27/89 - cc: all counsel **TOKAIRIN**

82 ANSWER to Amended Complaint; Certifi-
 cate of Service - On Behalf of Defendants

20 83 Motion for Summary Judgment; Notice;
 Memorandum in Support of Summary
 Judgment; Affidavit of Cinda Sandin;
 Exhibits "A" through "K"; Certificate of
 Service On Behalf of Defendants

27 84 Memorandum in Opposition to Plaintiff's
 Motion for an Order to Show Cause Why
 Defendants Should Not be Held in Con-
 tempt for Violating Paragraph "B" of Page
 4 of the Preliminary Injunction Filed
 December 2, 1988; Affidavit of Cinda
 Sandin; Exhibit "A"; Certificate of Service

85 ORDER Setting Deadline for Opposing
 Memoranda - pltf shall file response to
 M/Summary Judgment by 1-2-90. Failure
 to file the appropriate papers will result in
 the grant of defts' motion cc: all parties of
 record **TOKAIRIN**

28 85 Process Receipt And Return - Complaint
 Served by USM via U.S. Mail - 10-25-89

Dec 19 86 Certificate of Service on behalf of Defen-
 dant

21 87 Defendants' pre-trial statement; certificate
 of service

1990
 Jan 4 88 Motion to Dismiss; Affidavit of DeMont
 R.D. Conner; Certificate of Service - On
 Behalf of Plaintiff - Referred to Tokairin

89 ORDER Continuing Final Pre Trial Confer-
 ence Pending Ruling on Motion for Sum-
 mary Judgment - trial date vacated. Dates
 will be reset upon a ruling on Defendants'
 Motion for Summary Judgment - cc: all
 counsel **TOKAIRIN**

8 90 Opposition to Defendants Motion for
 Summary Judgment with Cross-Motion
 for Summary Judgment; Memorandum in
 Support of Opposition; Affidavit of
 DeMont R.D. Conner; Exhibits "A"
 through "G"; Certificate of Service - On
 Behalf of Plaintiff - Referred to Tokairin

16 91 Process Receipt and Return - Served Lau-
 rence Shohet, Dept of Corrections -
 UNSERVED

92 Process Receipt and Return - Served
 Edward Marshal, Halawa Correctional
 Facility UNSERVED

24 93 Rebuttal Memorandum to Plaintiff's
 Opposition to Defendants' Motion for
 Summary Judgment With Cross-Motion
 for Summary Judgment; Certificate of Ser-
 vice

Feb 12 94 Sirrebuttal Memorandum to Defendant's
 Rebuttal Memorandum to Plaintiff's
 Opposition to Defendants' Motion for
 Summary Judgment with Cross-Motion
 for Summary Judgment; Exhibit "A"; Cer-
 tificate of Service - On Behalf of Plaintiff

- Apr 19 95 Letter requesting for intervention re: violation of the Order adopting magistrate's report and recommendation filed on 12/2/88 - On Behalf of Plaintiff
- 24 96 ORDER Regarding Plaintiff's Letter of April 12, 1990 - pltf's request denied cc: all parties of record **TOKAIRIN**
- May 15 97 Plaintiff's Objection to Magistrates Order Denying Plaintiff's Request for a Contempt Hearing; Affidavit of DeMont R.D. Conner; Exhibits "A"; Certificate of Service - referred to Kay
- June 4 98 ORDER Affirming Magistrate Tokairin's Order Regarding Plaintiff's Letter of April 12, 1990 cc: all parties of record **KAY**
- Jul 13 99 Letter Dated 7/3/90 Re: Preliminary Injunction (Law Library) - referred to Kay
- 27 100 ORDER of Designation to a Magistrate **KAY** [OSC for Violation of Preliminary Injunction designated to Mag. Conklin] cc: all parties
- Aug 16 101 ORDER of Designation to A Magistrate - Magistrate Bert S. Tokairin is designated to hear: Order to Show Cause for Violation of Preliminary Injunction. cc: All Parties of Record **KAY**
- 31 102 ORDER Setting Forth Response Time - (Defendants shall file a reponse [sic] to Order to Show Cause by 9/24/90) cc: All Parties of Record **TOKAIRIN**
- Sep 24 1003 Defendants' Response to August 29, 1990 Order to Show Cause; Declaration of Janice Neilson; Declaration of Shelley

- Nobriga; Declaration of Cinda Sandin; Declaration of Davis Ho; Declaration of Carl Zuttermiester; Declaration of Jacob M. Merrill; Exhibits A-K; Certificate of Service
- Oct 2 104 Motion for Shortening of Time for a Hearing to be Held on Plaintiff's Motion for and Order to Show Cause Why Defendants Should Not Be Held in Contempt for Violating Preliminary Injunction of December 2, 1988; Affidavit of DeMont R.D. Conner; Exhibit "A"; Certificate of service - On Behalf of Plaintiff Referred to Tokairin
- 1991
- Jan 3 105 Report Re: Plaintiff's Order to Show Cause Why Defendants Should Not Be Held in Contempt for Violating Judge Kay's 1988 Preliminary Injunction - be **DENIED** - cc: all counsel **TOKAIRIN**
- Mar 4 106 Request to stay all the proceedings - referred to Kay
- May 14 107 ORDER Denying Plaintiff's Request to Stay Proceedings - cc: all counsel **KAY**
- 15 108 ORDER Adopting Magistrate's Report and Recommendation - That Plaintiff's Order to Show Cause Why the Defendants should not be held in Contempt and Plaintiff's Motion for Shortening of Time for a Hearing on the Order to Show Cause is hereby **DENIED**. cc: All parties of record **KAY**
- 20 109 Proposed Report and Recommendation Granting Defendants' Motion for Summary Judgment On Behalf of Defendants

- 21 110 Report and Recommendation Granting Defendants' Motion for Summary Judgment - the Complaint is DISMISSED with Prejudice - On Behalf of Defendants **TOKAIRIN**
- 31 111 Motion for Extension of Time to File Objection to Magistrates Report and Recommendation - referred to Kay - on behalf of Plaintiff
- Jun 3 112 ORDER partially Granting Plaintiff's Motion for Extension of Time to File Objection to Magistrate's Report and Recommendation - Objection be filed no later than 6/10/91 cc: All parties of record **KAY**
- 18 113 Objection to Magistrate's Report and Recommendation; Affidavit of DeMont R.D. Conner; Certificate of Non-Service - on behalf of plttff - referred to Kay
- Sep 18 114 EP: Order to Show Cause - Defendant's Motion for Summary Judgment is being considered by Judge Kay. Hearing continued to 12/19/91 @ 9:30 (ESR-KKO) **PENCE**
- 30 115 ORDER Adopting Magistrate's Report and Recommendation Granting Defendants' Motion for Summary Judgment **KAY** cc: all parties [Court adopts R&R and dismisses the complt with prejudice]
- 116 JUDGMENT in a Civil Case - **CHINN** [court adopts the R&R granting Defendants' Motion for Summary Judgment, denying Plaintiff's cross motion for Summary Judgment, and dismissing the complt with prejudice] cc: all parties

- Oct 16 117 **NOTICE OF APPEAL; Certificate of Service (By Plaintiff) (CA 91-16704)**
- 23 Notice of Appeal sent to Clerk, 9th CCA & to all counsel
- 1992
May 5 Original Record mailed Federal Express to 9th CCA - (CA 91-16704)
- 1994
Mar 21 EO: Received from 9th CCA Original Clerk's record in 3 volumes (Called - will look for volume 4) RECEIVED from 9th CCA - volume 4
- 30 118 JUDGMENT - 9th CCA - AFFIRMED in part, REVERSED in part, and REMANDED - Browning, Norris and Reinhardt - cc: all counsel, Dottie and Kay
-

DOCKET ENTRIES CA9 NO. 91-16704

Conner v. Sakai

- 11/5/91 DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL AND PRO SE. Setting schedule as follows: appellant's designation of RT is due 10/28/91; appellee's designation of RT is due 11/7/91; appellant shall order transcript by 11/18/91; court shall file transcript in DC by 12/18/91; certificate of record shall be filed by 12/26/91; appellant's opening brief is due 2/3/92; appellees' brief is due 3/4/92; appellants' reply brief is due 3/18/92; [91-16704] (sm)
- 1/13/92 Filed Appel'at DeMont R.D. Conner's document entitled "ex parte petition for writ [sic] of mandamus w/exh's. CRIMAT [91-16704] 2055294] [91-16704] (vt)
- 3/16/92 Filed order (James R. BROWNING, Charles E. WIGGINS): Apl't's "ex parte petition for writ of amndamus [sic]," filed Jan. 13, 1992, is construed as a motion for injunctive relief. So construed [sic], the motion is denied. Apl't may file a new action in the district court if he desires the relief requested in the motion for injunction relief. Apl't's opening brief and excerpts of record were due Feb. 2, 1992. To date, apl't has not filed his opening brief nor move for an ext of time. Apl't's opening brief and excerpts of record are now due April 13, 1992; aple's brief is due May 13, 1992; the optional reply brief is due May 27, 1992. Failure to comply with this order man [sic] result in the dismissal of this appeal for failure to prosecute. 9th Cir. R. 42-1. [91-16704] (vt)

- 4/17/92 Received Appellant DeMont R.D. Conner's brief in 7 copies 5 pages w/attachments (Informal: y) deficient late and no excepts: Served on 4/10/92 Ref/PROMO [91-16704] (vt)
- 5/1/92 Filed order (Deputy Clerk: 1p) The court is in receipt of the apl't's informal opening brief with attachments that appear to be portions of the Excerpt's [sic] of record. The Excerpts of record requirement is waived. The opening brief is ordered filed. The clerk of the district court is requested to forward the clerk's record and any reporter's transcripts within 10 days of the entry of this order. The answering brief remains due May 13, 1992. The optimal reply briefj [sic] is due 14 days from service of the answering brief. A copy of this order shall be provided to the district court clerk. [91-16704] (vt)
- 5/1/92 Filed original and 7 copies Appellant DeMont R.D. Conner opening brief (Informal: Y) 5 pages. served on 4/10/92 [91-16704] (vt)
- 5/6/92 Filed certified record on appeal in 4 Vols. (total): 4 Clerks Rec 0 RTs (ORIG) [91-16704] [91-16704] (vt)
- 5/14/92 Filed motion & clerk order (lp) Aples' motion for an ext of time in which to file the answering brief is granted. The answering brief is due June 6, 1992. No further ext of time ot [sic] fiel [sic] this brief will be granted, etc., The optional reply brief is due 14 days from service of the answering brief. (Motion recvd 5/6/92) [91-16704] (vt)

- 6/3/92 Filed original and 15 copies appellee Theodore Sakai's 24 pages brief. served on 6/1/92 [91-16704] (vt)
- 6/22/92 Filed original and 7 copies DeMont R.D. Conner reply brief, (Informal: y) 7 pages; served on 6/16/92 [91-16704] (vt)
- 8/21/92 Calendar check performed [91-16704] (dd)
- 9/8/92 Calendar materials being prepared. [91-16704] [91-16704] (dd)
- 9/10/92 CALENDARED: Hawaii Nov. 5, 1992 9:00 a.m. Courtroom Intermediate Court of Appeals [91-16704] (dd)
- 9/29/92 Sent Rule 34-4 letter. Case to be submitted on briefs on 11/5/92 [91-16704] (dd)
- 11/5/92 SUBMITTED ON THE BRIEFS TO: James R. BROWNING, William A. NORRIS, Stephen R. REINHARDT. [91-16704] (jmr)
- 6/2/93 FILED OPINION: AFFIRMED IN PART, REVERSED IN PART, AND REMANDED (Terminated on the Merits after Submission Without Oral Hearing; Affirmed (in part) and Reversed (in part); Written, Signed, Published. James R. BROWNING; William A. NORRIS; Stephen R. REINHARDT, author.) FILED AND ENTERED JUDGMENT. 4.5 MEMO SENT TO SR RE: COSTS [91-16704] (ck)
- 6/16/93 [2372705] Filed original and 40 copies Appellee Theodore Sakai petition for rehearing with suggestion for rehearing en banc. (PANEL and ALL ACTIVE JUDGES.) 15 p.pages, served on 6/15/93 [91-16704] (rei)

- 6/29/93 Filed order (James R. BROWNING, William A. NORRIS, Stephen R. REINHARDT): Pursuant to general order 4.5(e); each [sic] side is to bear it's own costs. [91-16704] (rei)
- 2/2/94 Filed amended opinion (Judges James R. BROWNING, William A. NORRIS, Stephen R. REINHARDT) [91-16704] (rei)
- 2/25/94 Filed order (James R. BROWNING, William A. NORRIS, Stephen R. REINHARDT): The petition for rehearing is denied and the suggestion for rehearing en banc is rejected. [91-16704] (rei)
- 3/25/94 MANDATE ISSUED [91-16704] (jr)
- 6/7/94 Received notice from Supreme Court: petition for certiorari filed Supreme Court No. 93-1911 filed on 5/26/94. [91-16704] (crw)
- 10/18/94 Filed Supreme Court order granting certiorari. PANEL (SC Date: 10/7/94) [91-16704] (crw)
-

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

<u>DeMONT RAPHEAL</u>)	CIVIL NO.
<u>DARWIN CONNER</u>)	<u>88-00169 ACK</u>
(Enter above the full name of)	
the plaintiff in this action))	COMPLAINT
vs.)	(42 U.S.C. §1983)
)	
<u>THEODORE SAKAI,</u>)	
<u>WILLIAM OKU, CINDA</u>)	
<u>SANDIN, IN THEIR INDIVIDUAL</u>)	
<u>AND OFFICIAL CAPACITIES,</u>)	
_____)	

(Filed Mar. 14, 1988)

I. Previous Lawsuits

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment? Yes(✓) No()
- B. If your answer to A is yes, describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to this previous lawsuit

Plaintiffs DeMONT R. D. CONNER
Defendants HAROLD FALK, DIRECTOR OF
CORRECTIONS DIVISION,
WILLIAM OKU, ADMINISTRA-
TOR OF HALAWA HIGH SECU-
RITY FACILITY.

2. Court (if federal court, name the district, if state court, name the county)

DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION (CIVIL)

3. Docket number NONE
4. Name of judge to whom case was assigned
HONORABLE FREDRICK J. TITCOMB
5. Disposition (for example: Was case dismissed? Was it appealed? Is it still pending?)
D.C. DISMISSED
6. Approximate date of filing lawsuit MARCH
2, 1988
7. Approximate date of disposition D.C.
MARCH 3, 1988

II. Place of Present Confinement HALAWA HIGH
SECURITY FACILITY

- A. Is there a prisoner grievance procedure in this institution? Yes(✓) No()
- B. Did you present the facts relating to your complaint in the state prisoner grievance procedure? Yes(✓) No()
- C. If your answer is YES,
1. What steps did you take? ALL THREE STEPS
(INCLUDING OMBUDSMAN)
 2. What was the result? AFFIRMATIVE
- D. If your answer is NO, explain why not -N/A-
- E. If there is no prison grievance procedure in the institution, did you complain to prison authorities? Yes() No()

F. If your answer is YES,

1. What steps did you take? -N/A-
2. What was the result -N/A-

III. Parties

In item A below, place your name in the first blank and place your present address, in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff DeMONT R.D. CONNER

Address 99-902 MOANALUA HWY. AIEA,
HAWAII 96701

(In item B below, place the full name of the defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use item C for the names, positions, and places of employment of any additional defendants.)

B. Defendant THEODORE SAKAI, is employed as ADMINISTRATOR, at CORRECTIONS DIVISION,

C. Additional Defendants WILLIAM OKU, ADMINISTRATOR HALAWA HIGH SECURITY FACILITY, CINDA SANDIN, UNIT TEAM MANAGER, HALAWA HIGH SECURITY FACILITY,

IV. Statement of Claim

(State here as briefly as possible the *facts* of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and place. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheets if necessary.)

1. ON AUGUST 28, 1987, PLAINTIFF WAS SUMMONED TO THE INSTITUTIONS PAROLE BOARD HEARING/INTERVIEW ROOM TO FACE CHARGES ON AN ALLEGED MISCONDUCT CHARGES OF WHICH MS. CINDA SANDIN SAT AS THE CHAIRMAN. 2. IT WAS IN THIS HEARING THAT I WAS DENIED THE RIGHT TO QUESTION THE ADULT CORRECTIONAL OFFICER WHO WROTE ME UP. 3. I WAS DENIED TO RIGHT TO REVIEW THE SUBMITTED REPORTS CONCERNING THESE CHARGES. 4. I WAS DENIED THE OPPORTUNITY TO CALL (STAFF) WITNESSES ON MY BEHALF. 5. I WAS DENIED THE OPPORTUNITY TO CALL (STAFF) WITNESSES WHO WERE PRESENT AT THE ALLEGED INCIDENT. 6. I FILED AN INMATE COMPLAINT/GRIEVANCE FORM AT ALL THREE STEPS CONTESTING THE CONVICTION OF THE ABOVE MENTIONED AND OTHER GROUNDS OF WHICH MR. OKU'S REPRESENTATIVE AND MR. SAKAI (DEFENDANTS(CC)) FAILED TO RENDER RELIEF. I'VE ALSO NOTIFIED THE OMBUDSMAN'S OFFICE, AND SO I SUFFERED 30 DAYS ILLEGAL CONFINEMENT AND ENDED UP DOING (6) SIX WHOLE MONTHS OF TERROR, BOTH PHYSICAL AND MENTAL ANGUISH.

V. Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

PLAINTIFF PRAYS THAT THIS HONORABLE COURT WILL MAKE A DECLATORY JUDGMENT, AND AWARD PLAINTIFF MONETARY DAMAGES SUCH AS: \$10,000 COMPENSATORY FROM EACH DEFENDANT, AND \$10,000 PUNITIVE FROM

EACH DEFENDANT, PLUS REASONABLE ATTOR-
NEY FEE'S AS THIS COURT DEEMS FIT.

Signed this 10th day of March, 1988.

/s/ DeMont R. D. Conner
Signature of Plaintiff

IN THE UNITED STATE DISTRICT COURT FOR THE
DISTRICT OF HAWAII

[Caption Omitted In Printing]

ORDER GRANTING IN FORMA
PAUPERIS APPLICATION

(Filed Apr. 11, 1988)

Plaintiff Conner filed an application to proceed in forma pauperis on March 14, 1988. After due consideration of plaintiff's application, the request to proceed in forma pauperis is granted subject to certain conditions.

The court notes that to proceed in forma pauperis is a privilege, not a right. *Jefferson v. U.S.A.*, 277 F.2d 723 (9th Cir. 1960). The granting or refusing of that privilege is a matter committed to the sound discretion of the court. *Smart v. Heinze*, 347 F.2d 114 (9th Cir. 1965).

In the present case, Mr. Conner has approximately \$152.00 in his prison account and no other assets at present. Mr. Conner's financial status justifies his request to proceed in forma pauperis.

Mr. Conner's complaint challenges the procedure in a disciplinary hearing where he alleges that he was denied the right to question a correctional officer, to review reports submitted on the charges, or to call witnesses on his behalf. This Court is required to review complaints by pro se litigants liberally and provide such parties with notice of the deficiencies. *Noll v. Carlson*, 809 F.2d 1446 (9th Cir. 1987). There is an important distinction for due process purposes between disciplinary procedures which are required for major misconduct and those procedures which are required to impose lesser penalties. *Wolff v.*

McDonnell, 418 U.S. 539 (1976); *Baxter v. Palmigiano*, 425 U.S. 308 (1976). Plaintiff should therefore provide the Defendants with a description of the nature of the disciplinary proceeding which is the subject of this complaint.

IT IS HEREBY ORDERED that Plaintiff's application to proceed in forma pauperis is GRANTED.

DATED: Honolulu, Hawaii, APR 11, 1988.

/s/ Bert S. Tokairin
UNITED STATES
MAGISTRATE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

[Caption Omitted In Printing]

MOTION FOR LEAVE TO FILE
AMENDED COMPLAINT

(Filed May 3, 1988)

PLAINTIFF DeMONT R.D. CONNER, PURSUANT TO RULES 15(a) AND 19(a) OF THE FEDERAL RULES OF CIVIL PROCEDURES, REQUEST LEAVE TO FILE AN AMENDED COMPLAINT ADDING THREE PARTIES AS DEFENDANTS.

1. PLAINTIFF IN HIS ORIGINAL COMPLAINT NAMED THREE DEFENDANTS AS THE PERSONS WHOM HAD VIOLATED HIS CONSTITUTIONAL RIGHTS.

2. SINCE THE FILING OF THE COMPLAINT, THE PLAINTIFF HAS DETERMINED THAT THE ADDED DEFENDANTS ARE ALSO RESPONSIBLE FOR THE ARBITRARY ACTIONS THAT WAS [sic] TAKEN AGAINST HIM WHILE CONFINED IN SPECIAL HOLDING FOR THE AFOREMENTIONED SIX MONTHS. (SEE ORIGINAL COMPLAINT)

3. THIS COURT SHOULD GRANT LEAVE FREELY TO AMEND A COMPLAINT, SEE: *FOMAN V. DAVIS* 1371 U.S. 178.83 S.CT.227 (1962)

AMENDED COMPLAINT

4. DEFENDANT HAROLD FALK A RESIDENT OF THE STATE OF HAWAII, IS THE DIRECTOR OF CORRECTIONS DIVISION OF WHICH OVERSEES AND HAS

JURISDICTION OF HALAWA HIGH SECURITY FACILITY AND HALAWA CORRECTIONAL FACILITY (HEREIN AFTER H.H.S.F. AND H.C.F. RESPECTIVELY) SAID DEFENDANT IS HELD LIABLE BY KNOWLEDGE AND ACQUIESCENCE.

5. DEFENDANT LAWRENCE SHOHET, A RESIDENT OF THE STATE OF HAWAII, IS THE DEPUTY ADMINISTRATOR OF H.H.S.F AND H.C.F SAID DEFENDANT IS HELD LIABLE IN HIS CAPACITY BY KNOWLEDGE AND ACQUIESCENCE

6. DEFENDANT LEONARD GONSALVES, A RESIDENT OF THE STATE OF HAWAII, IS THE CHIEF OF SECURITY OF H.C.F. AND IS HELD LIABLE IN HIS CAPACITY BY KNOWLEDGE AND ACQUIESCENCE, AND HAS ALSO PLAYED AN ACTIVE ROLE IN IGNORING MY COMPLAINTS VIA GRIEVANCE.

7. PLAINT CONTENDS THAT THE ADDED DEFENDANTS KNEW OR SHOULD HAVE KNOWN ABOUT THE CONSTITUTIONAL VIOLATIONS THAT GO ON THROUGH OUT THEIR INSTITUTIONS AND STAFF.

RELIEF

8. PLAINTIFF SEEKS DECLATORY JUDGMENT, INJUNCTIVE RELIEF, AND DAMAGE AWARDS AS LISTED BELOW. ALSO REASONABLE ATTORNEY FEES AS THE HONORABLE COURT DEEMS FIT

9. PLAINTIFF SEEKS DAMAGES IN THE SUM OF \$10,000 COMPENSATORY AND \$10,000 PUNITIVE DAMAGES FROM EACH DEFENDANT.

10. EACH DEFENDANT IS SUED IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES.

DATED: HONOLULU, HAWAII, APRIL 29, 1988

/s/ DeMont R.D. Conner
DeMONT R.D. CONNER
PRO SE
99-902 MOANALUA HWY.
AIEA, HAWAII 96701

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

[Caption Omitted In Printing]

ANSWER TO AMENDED COMPLAINT

(Filed May 23, 1988)

Come now Defendants in the above-entitled action, through their attorneys, Warren Price, III, Attorney General, State of Hawaii, and Glenn S. Grayson, Deputy Attorney General, and answer the complaint as follows:

FIRST DEFENSE

The complaint fails to state a claim against Defendants, and each of them, upon which relief can be granted.

SECOND DEFENSE

1. Defendants deny each and every allegation contained in every paragraph of the complaint and amended complaint.

THIRD DEFENSE

Defendants are protected from liability by the doctrine of qualified immunity.

FOURTH DEFENSE

Defendants are protected from liability by the doctrine of sovereign immunity.

FIFTH DEFENSE

This action is barred by the statute of limitations.

WHEREFORE, Defendants pray that the complaint herein be dismissed and that they be allowed their costs, reasonable attorney's fees, and such other relief as the Court deems appropriate.

Dated: Honolulu, Hawaii, MAY 23 1988

WARREN PRICE, III
Attorney General
State of Hawaii

/s/ Glenn S. Grayson
GLENN S. GRAYSON
Deputy Attorney General

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

[Caption Omitted In Printing]

PLAINTIFFS BRIEF IN SUPPORT OF COMPLAINT
AND AMENDED COMPLAINT

(Filed June, 15 1988)

THIS IS A § 1983 ACTION FILED BY A PRISONER AT THE HALAWA HIGH SECURITY FACILITY (HEREINAFTER H.H.S.F.) SEEKING DECLARATORY JUDGMENT AND DAMAGES. IN PLAINTIFFS AMENDED COMPLAINT PLAINTIFF ADDED INJUNCTIVE RELIEF. BASED ON PRISON OFFICIALS' ARBITRARY PROCEDURE IN A DISCIPLINARY HEARING, WHERE HE WAS DENIED THE RIGHT TO QUESTION THE CORRECTIONAL OFFICER WHOM WROTE HIM UP; TO REVIEW THE SUBMITTED REPORTS; AND TO CALL WITNESSES ON HIS BEHALF. PLUS PRISON OFFICIALS ARBITRARY ACTIONS TAKEN AGAINST PLAINTIFF WHILE HOUSED IN THE SPECIAL HOLDING UNITS AT H.H.S.F. AND H.M.S.F. (HALAWA MEDIUM SECURITY FACILITY) FOR A TOTAL OF (6) SIX MONTHS, UNDER ILLEGAL CONFINEMENT.

CLARIFICATION AND DESCRIPTION/
STATEMENT OF FACTS

PLAINTIFF PURSUANT TO THE HONORABLE BERT TOKARUN [sic], MAGISTRATE IN THIS ISSUE, DECISION THAT PLAINTIFF SHOULD PROVIDE DEFENDANTS WITH A DESCRIPTION OF THE NATURE OF THE DISCIPLINARY PROCEEDING

WHICH IS THE SUBJECT OF PLAINTIFFS ORIGINAL COMPLAINT.

PLAINTIFF THEREFORE SHALL PROCEED IN THIS BRIEF, TO CLARIFY AND DESCRIBE IN MINUTE DETAIL, EACH AND EVERY ALLEGATION THAT HE MAKES AGAINST DEFENDANT AS BEST AS HE CAN, IN GOOD FAITH, TO PROMOTE AN UNDERSTANDABILITY FOR ALL PERSONS INVOLVED, AND FAIRNESS.

STATEMENT OF FACTS

1. ON AUGUST 28, 1987, PLAINTIFF WAS SUMMONED TO THE H.H.S.F.'S PAROLE BOARD HEARING/INTERVIEW ROOM TO FACE CHARGES ON AN ALLEGED VIOLATION OF CORRECTIONS DIVISIONS TITLE 17 RULES § 17-201-7(14): THE USE OF PHYSICAL INTERFERENCE OR OBSTACLE [sic] RESULTING IN THE OBSTRUCTION, HINDERANCE [sic], OR IMPAIRMENT OF A CORRECTIONAL FUNCTION BY A PUBLIC SERVANT (A HIGH MISCONDUCT CATAGORY [sic]); AND §§ 17-201-9(5) AND (12): USING ABUSIVE OR OBSCENE LANGUAGE TO A STAFF MEMBER; AND HARASSMENT OF EMPLOYEES (RESPECTIVELY) (LOW MODERATE MISCONDUCTS).

2. I [IT] WAS IN THIS HEARING THAT DEFENDANT CINDA SANDIN, WHOM WAS THE CHAIRMAN OF PLAINTIFFS ADJUSTMENT COMMITTEE HEARING, DENIED PLAINTIFF THE RIGHT TO: A. QUESTION THE CORRECTIONAL OFFICER WHOM HAD MADE THE ALLEGATIONS AGAINST ME. B. TO VIEW THE SUBMITTED REPORTS. C. DEFENDANT SANDIN

ALSO DENIED PLAINTIFF ARBITRARILY, THE OPPORTUNITY [sic] TO CALL STAFF WITNESSES WHO WERE PRESENT AT THE ALLEGED INCIDENT, AND D. TO CALL STAFF WITNESSES ON PLAINTIFFS BEHALF. SUBSEQUENTLY PLAINTIFF WAS FOUND GUILTY OF THE SAID MISCONDUCTS.

3. DEFENDANT SANDIN SENTENCED PLAINTIFF TO 30 DAYS IN SPECIAL HOLDING.

4. DEFENDANT SANDIN FURTHERMORE ARBITRARILY VIOLATED PLAINTIFFS RIGHTS BY DENYING PLAINTIFF THE RIGHT TO PETITION THE COURTS, WHEN DEFENDANT WITHHELD PLAINTIFFS LEGAL MATERIALS FOR TWO MONTHS.

5. DEFENDANT SANDIN FURTHERED HER ILLEGAL ACTS WHEN SHE CONTINUALLY REJECTED ARBITRARILY, PLAINTIFFS ATTEMPTS TO REGAIN HIS LEGAL MATERIALS VIA GRIEVANCES BY SHUFFLING RESPONSIBILITIES OF THE HANDLING OF LEGAL MATERIALS.

6. PLAINTIFF WOULD NOT BE SUCCESSFUL AT ATTEMPTS HE MADE TO SOLVE THIS PROBLEM INTERNALLY BY FOLLOWING ADMINISTRATIVE PROCEDURES IN FILING GRIEVANCES, BECAUSE DEFENDANT SANDIN OFTEN ANSWERED HER OWN GRIEVANCES (THOSE MADE AGAINST HER).

7. IT WAS AROUND THIS TIME PERIOD, THAT (AUGUST '87 - NOVEMBER '87) PLAINTIFF NOTICED ALL SERIOUS GRIEVANCE WRITERS (JAIL-HOUSE LAWYERS) WERE SENT TO THE "HOLE" (SPECIAL HOLDING) ON ALLEGED FICTICIOUS [sic] CHARGES,

AND ALL WERE IN ONE WAY OR ANOTHER RETALIATED AGAINST BY DEFENDANT SANDIN AND/OR OTHER PRISON PERSONNEL. BUT FOR PLAINTIFF THIS RETALIATION TREATMENT HAD BEEN DONE IN A COMBINATION OF WAYS, OF WHICH PLAINTIFF TRIED TO LOG EVERYTHING DOWN VIA GRIEVANCE. FURTHERMORE SO BAD WAS THIS [sic] ARBITRARY ACTS THAT PLAINTIFF SUFFERED MENTALLY AND EMOTIONALLY.

A. ESTABLISHING PERSONAL INVOLVEMENT: DEFENDANT CINDA SANDIN IS HELD LIABLE BY HER CONTINUOUSLY ARBITRARY ACTIONS (MENTIONED EARLIER) AGAINST PLAINTIFF.

B. DEFENDANT LEONARD GONSALVES IS HELD LIABLE BY KNOWLEDGE AND ACQUIESCENCE; WHAT ACTIONS HE ENFORCED WAS VIOLATORY OF PLAINTIFFS CLEARLY ESTABLISHED CONSTITUTIONAL RIGHTS: FOR DEFENDANT GONSALVES HAS ENFORCED THE ARBITRARY STRIP-SEARCH PROCEDURE WHICH IS ONE OF THE FACTORS THAT HELPED TO PROMOTE PLAINTIFFS SUFFERINGS. ALSO DEFENDANT GONSALVES PLAYED AN IMPORTANT PART IN FURTHERING PLAINTIFFS ANGUISH BY HINDERING THE GRIEVANCE PROCESS, OF WHICH HE ANSWERED STEPS ONE AND TWO, AND JUST DENIED PLAINTIFFS COMPLAINTS. DEFENDANT GONSALVES' ACTIONS WILL TEND TO SHOW ARBITRARINESS.

C. DEFENDANT LAWRENCE SHOHET IS HELD LIABLE FOR HIS PART IN IMPLEMENTING AN ARBITRARY AND ILLEGAL PHASING SYSTEM CALLED

SEGREGATION MAXIMUM CONTROL PROGRAM (HERIN [sic] AFTER PHASE ONE) THE LEVEL PLAINTIFF IS CHALLENGING IS PHASE ONE WHICH ARBITRARILY SUBJECTS INMATES TO PUNISHMENT BEYOND THEIR ADJUSTMENT COMMITTEE SENTENCES. THIS "PHASE ONE" SYSTEM ENHANCED PLAINTIFFS VULNERABILITY TO ACCUMULATE MISCONDUCTS WHILE HE (PLAINTIFF) DID HIS MENTIONED (6) MONTHS TIME IN SPECIAL HOLDING, OF WHICH PLAINTIFF CONTENDS THAT THESE "STAFF PROVOKED" MISCONDUCTS WERE GIVEN IN RETALIATION TO PLAINTIFF UNTIL STOPPED WRITING GRIEVANCES AGAINST OFFICIALS, WHEN PLAINTIFF DID HAULT [sic] HIS GRIEVANCES HE WAS SUBSEQUENTLY LET OFF OF A MAJOR MISCONDUCT OF WHICH PLAINTIFF WAS GUILTY OF, AND THEN PLAINTIFF WAS EVENTUALLY ALLOWED TO RETURN TO GENERAL POPULATION. DEFENDANT SHOHET ALSO AT TIMES FAILED TO INVESTIGATE PLAINTIFF COMPLAINTS SO HE IS LIABLE FOR FAILING TO RENDER RELIEF, WHEN HE HAD THE POWER TO DO SO.

D. DEFENDANTS WILLIAM OKU, THEODORE SAKAI, AND HAROLD FALK, ARE HELD LIABLE ALSO FOR THEIR PART IN IMPLEMENTING AN ILLEGAL PHASING SYSTEM WHICH IS ARBITRARY, AND WHICH ENHANCED PLAINTIFFS ANGUISHES, WHILE PLAINTIFF WAS HELD IN ILLEGAL CONFINEMENT.

E. DEFENDANTS OKU, AND SAKAI, ALSO ARE LIABLE FOR THE ARBITRARY SAID ILLEGAL STRIP-SEARCH PROCEDURE WHICH PLAINTIFF ON

NUMEROUS ACCOUNTS HAD BEEN SUBJECTED TO. THIS PROCEDURE HELPED TO PROMOTE PLAINTIFFS ANGUISHES.

F. DEFENDANT SAKAI, INDIVIDUALLY IS ALSO LIABLE BY KNOWLEDGE AND ACQUIESCENCE, FOR OFTEN HE HAS REFUSED TO RENDER RELIEF IN PLAINTIFF GRIEVANCE COMPLAINTS TO HIM FURTHERING PLAINTIFFS ANGUISH.

G. DEFENDANTS OKU, AND SHOHET ARE ALSO LIABLE FOR THEIR INVOLVEMENT IN IMPLEMENTING AND [sic] ILLEGAL, IRRATIONAL, AND ARBITRARY STRIP-SEARCH PROCEDURE, WHICH AS BRIEFLY DISCUSSED *INFRA*, FURTHERED PLAINTIFFS ANGUISH.

H. ANOTHER ARBITRARY SEGMENT THAT PLAYED A KEY ROLE IN PLAINTIFFS ANGUISHES, IS THE DENIAL OF ADEQUATE RECREATION TIME. DEFENDANTS OKU, SHOHET, AND GONSALVES ONLY PERMITTED ONE HOUR OF RECREATION PERIOD FOR ONE DAY OUT OF THE WEEK, AND THE SCHEDULING OFTEN CONFLICTED WITH PLAINTIFFS VISITING SCHEDULE CAUSING PLAINTIFF TO LOSE EVEN MORE RECREATION, WHEREBY PLAINTIFF HAD NO OTHER ADEQUATE MEANS TO VENTILATE HIS FRUSTRATIONS, WHICH ULTIMATELY, FURTHERED PLAINTIFFS ANGUISHES. THEREFORE DEFENDANTS OKU, SHOHET, AND GONSALVES ARE HELD LIABLE FOR THIS.

I. ARGUMENT TAKEN INDIVIDUALLY PLAINTIFFS SEVERE SUFFERINGS BY THE DEPRIVATION OF HIS CONSTITUTIONAL RIGHTS PROTECTED BY THE

FIRST, FOURTH, SIXTH, AND FOURTEENTH, AMENDMENTS CAUSED BY THE DEFENDANTS' ARBITRARY ACTIONS AGAINST PLAINTIFF, PLAINTIFF IS ENTITLED TO RELIEF.

ALTHOUGH PLAINTIFF ACKNOWLEDGES THAT HIS CONSTITUTIONAL RIGHTS ARE GREATLY LIMITED, AS A CONVICTED PRISONER, PLAINTIFF IS PROTECTED IN SOME MEASURE BY SEVERAL PROVISIONS OF THE UNITED STATES CONSTITUTION, AS WELL AS BY CERTAIN OTHER PROVISIONS OF STATE AND FEDERAL LAW. IN *WOLFF V. MCDONNELL*, 418 U.S. 539, 555-56, 94 S.C.T. 2963 (1974) THE COURT STATED: "LAWFUL IMPRISONMENT NECESSARILY MAKES UNAVAILABLE MANY RIGHTS AND PRIVILEGES [sic] OF THE ORDINARY CITIZEN, A "RETRACTION JUSTIFIED BY THE CONSIDERATIONS UNDERLYING OUR PENAL SYSTEM." BUT THOUGH HIS RIGHTS MAY BE DIMINISHED BY THE NEEDS AND EXIGENCIES OF THE INSTITUTIONAL ENVIRONMENT, A PRISONER IS NOT WHOLLY STRIPPED OF CONSTITUTIONAL PROTECTIONS WHEN HE IS IMPRISONED FOR CRIME. THERE IS NO IRON CURTAIN DRAWN BETWEEN THE CONSTITUTION AND THE PRISONS OF THIS COUNTRY." THEREFORE WHEN DEFENDANTS ARBITRARILY DEPRIVED PLAINTIFF OF THE MINIMAL CONSTITUTIONAL PROTECTIONS HE HAS, THEY (DEFENDANTS) ARE LIABLE FOR THEIR ACTIONS.

EACH FACTUAL ASPECT OF PLAINTIFFS ALLEGATIONS IS CONSTITUTIONALLY DEFECTIVE OF WHICH IF PLAINTIFF PROVES HE IS ENTITLED TO THE REQUESTED RELIEF.

II. IN THE TOTALITY OF CONDITIONS THAT PLAINTIFF HAD BEEN SUBJECTED TO, DEFENDANTS ULTIMATELY VIOLATED PLAINTIFFS EIGHTH AMENDMENT RIGHT, WHICH PROHIBITS "CRUEL AND UNUSUAL PUNISHMENT." OF WHICH PLAINTIFF IS ENTITLED TO RELIEF: THE COURT IMPLIES IN *HUTTO V. FINNEY* 437 U.S. 687, 98 S.C.T. 2565 (1978) THAT "TAKEN AS A WHOLE" TOTALITY CONDITIONS MAY VIOLATE THE PROHIBITION AGAINST "CRUEL AND UNUSUAL PUNISHMENT". THOUGH PLAINTIFF ACKNOWLEDGES THAT IN *HUTTO SUPRA*, "TOTALITY CONDITIONS" CLAIMS WERE OF THE PHYSICAL NATURE, AN INFERENCE MAY BE DRAWN THAT IN A GIVEN CASE SEVERE MENTAL AND/OR EMOTIONAL ANGUISH COULD ALSO BE INCLUDED.

WHEREBY PLAINTIFF RESTS THAT UPON A SHOWING THAT HE DID SUFFER MENTAL AND/OR EMOTIONAL ANGUISH, HE WILL BE ENTITLED TO RELIEF PROTECTED BY THE EIGHTH AMENDMENT OF THE U.S. CONSTITUTION. DAMAGES AWARDS MAY BE AVAILABLE, WHETHER THE DEFENDANTS ARE STATE OR FEDERAL OFFICIALS, *CAREY V. PIPHUS*, 435 U.S. 247, 266, 98 S.C.T. 1042 (1978); *CARLSON V. GREEN*, 466 U.S. 14, 22, 100 S.C.T. 1468 (1980); *PATON V. LAPRADE*, 524 F.2D 862, 871-72 (3RD CIR. 1975).

CONCLUSION

WHEREFORE PLAINTIFF RESTS WITH THE CONTENTION THAT HE IS ENTITLED TO ALL THE

REQUESTED RELIEF FROM EACH DEFENDANT, SET FORTH IN PLAINTIFFS' ORIGINAL AND AMENDED COMPLAINTS, FOR DEFENDANTS' ARBITRARY VIOLATIONS OF PLAINTIFFS CONSTITUTIONAL RIGHTS. PLUS REASONABLE ATTORNEY FEES AS THIS COURT DEEMS FIT.

RESPECTFULLY SUBMITTED,

/s/ DeMONT R.D. CONNER
DeMONT R.D. CONNER
 PRO SE
 99-902 MOANALUA HWY.
 AIEA, HAWAII 96701

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF HAWAII

[Caption Omitted In Printing]

AFFIDAVIT OF DeMONT R.D. CONNER
IN SUPPORT OF BRIEF

STATE OF HAWAII)
) S.S.
 CITY AND COUNTY)
 OF HONOLULU

PLAINTIFF DEMONT R.D. CONNER, HAVING FIRST BEEN DULY SWORN STATES THE FOLLOWING UNDER PENALTY OF PERJURY:

1. THAT HE IS THE PLAINTIFF IN THE ABOVE ENTITLED ACTION. I MAKE THIS AFFIDAVIT IN SUPPORT OF MY BRIEF WHICH SUPPORTS MY COMPLAINT AND AMENDED COMPLAINT.

2. ON AUGUST 28, 1987, DEFENDANT CINDA SANDIN DID VIOLATE MY RIGHT TO DUE PROCESS WHEN SHE DENIED ME THE RIGHT TO QUESTION THE CORRECTIONAL OFFICER WHOM HAD WRITTEN ME UP, AND TO REVIEW THE SUBMITTED REPORTS, AND TO CALL WITNESSES.

3. I WAS CHARGED WITH A MAJOR MISCONDUCT AS SET FORTH IN TITLE 17 OF THE CORRECTIONS DIVISIONS INMAT [sic] HANDBOOK § 17-201-7(14).

4. THAT ALL THE ALLEGATIONS SET FORTH IN PARAGRAPHS 3-7 AND A-H, ARE TRUE TO THE BEST OF MY KNOWLEDGE.

5. THAT I BRING MY BRIEF IN SUPPORT . . . AND AFFIDAVIT IN SUPPORT . . . IN GOOD FAITH.

FURTHER AFFIANT SAYETH NAUGHT.

DATED: HONOLULU, HAWAII, MAY 17, 1988

/s/ DeMONT R.D. CONNER
DeMONT R.D. CONNER
 PRO SE
 99-902 MOANALUA HWY.
 AIEA, HAWAII 96701

I DECLARE UNDER PENALTY OF PERJURY THAT THE
FOREGOING IS TRUE AND CORRECT.

SIGNED THIS 17TH DAY OF MAY 1988

/s/ DeMONT R.D. CONNER
DeMONT R.D. CONNER
PRO SE
99-902 MOANALAU HWY.
AIEA, HAWAII 96701

IN THE UNITED STATES COURT FOR THE
DISTRICT OF HAWAII

[Caption Omitted In Printing]

ORDER GRANTING WRIT OF HABEAS CORPUS
AD TESTIFICANDUM

(Filed July 21, 1988)

Plaintiff DeMont Conner is a pro se prisoner litigant presently incarcerated at the Halawa Medium Security Facility (HMSF). Plaintiff filed this 42 USC §1983 action on March 14, 1988 challenging the procedure in a disciplinary hearing where he alleges that he was denied the right to question a correctional officer, to review reports submitted on the charges, or to call witnesses on his behalf. He was subsequently sentenced to 60 days in the Special Holdings Unit of the HMSF.

The plaintiff has filed two motions asking for temporary restraining orders and/or preliminary injunctions. The first motion, filed on May 3, 1988, seeks to halt alleged harassment by prison officials at HMSF. The second motion, filed on June 15, 1988, is designated a Writ of Habeas Corpus which this Court will construe as a request for a temporary restraining order and/or preliminary injunction. The motion requests that the Plaintiff be placed in protective custody and have adequate access to the law library at HMSF. The Plaintiff has also petitioned this Court to issue a Writ of Habeas Corpus, filed on April 28, 1988, to be given access to the Law Library at HMSF.

Toward these claims the Plaintiff has petitioned this court to issue a Writ of Habeas Corpus Ad Testificandum,

filed on May 3, 1988, to have him produced at all hearings pertaining to this claim. Since the Defendants have not responded to any of the Plaintiff's claims this Court can only assume that the allegations of the Plaintiff are correct and that the Defendants have no objection to the relief sought. To give the Defendants the opportunity to respond and because there are not sufficient facts before this Court to enable it to comprehensively rule on the Plaintiff's motions for temporary restraining order and/or preliminary injunction, this Court will grant the Plaintiff's motion for Writ of Habeas Corpus Ad Testificandum. It is hereby ordered that a hearing be held on Aug. 26, 1988 at 2:00pm., before this Honorable Court.

IT IS HEREBY ORDERED that Plaintiff's application for a writ ad testificandum is GRANTED.

DATED: Honolulu, Hawaii, JUL 21 1988.

/s/ Bert S. Tokairin
UNITED STATES
MAGISTRATE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

[Caption Omitted In Printing]

AFFIDAVIT OF CINDA SANDIN

(Filed Aug. 8, 1988)

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF)
HONOLULU

CINDA SANDIN, being first duly sworn, on oath deposes and says that:

1. She is an employee of the Department of Corrections and is currently a unit manager at the High Security Facility (HSF) at the Halawa Correctional Facility.
2. She is familiar with the conditions of confinement of plaintiff DeMont Conner, and the facts in this affidavit are based on personal knowledge.

Plaintiff is an inmate at Halawa Security Facility (HSF) and is serving a life sentence with the possibility of parole, along with other sentences for various crimes including attempted murder, kidnapping, robbery, rape, burglary and others.

4. Exhibit "A" is a true and correct copy of the Notice of Report of Misconduct for an incident which occurred on August 13, 1987.

5. The Notice shows that plaintiff was notified on August 25, 1987, of a hearing on the disciplinary charges to be held on August 25, 1987.

6. As a result of the August 28, 1987, hearing at which plaintiff was allowed to present his side of the matter, plaintiff was found guilty of using Abusive or Obscene language to a Staff Member, and of Harassment of an Employee.

7. Two other charges relating to the use of physical interference were expunged.

8. Exhibit B is a true and correct copy of Misconduct Report relating to the August 13, 1987 incident.

9. Protective custody is used to protect inmates from other inmates, and plaintiff has not requested such protective custody.

10. If an inmate has a problem with a staff member, then the unit manager or other official will attempt to solve the conflict, which could mean separation of the people involved.

11. Plaintiff has failed to provide any specific reasons which would require such action, and his claims of harassment are vague and general.

12. Exhibit C is a true and correct copy of a grievance and answer which shows that plaintiff may contact the Federal Bureau of Investigation if he so desires.

13. Exhibit D is a true and correct copy of a grievance and answer which shows that the staff have worked to fix any problem with the shower at HSF.

14. Exhibit E is a true and correct copy of a grievance and answer which shows that plaintiff was provided with a new blanket when he complained that he was allergic to his first blanket.

15. Strip searches of inmates are carried out on the population of inmates generally, as a way to prevent the smuggling of contraband, and plaintiff is not treated differently [sic] than other inmates in this respect.

16. Inmates are given Tylenol pursuant to the following policy:

(a) Inmates may verbally request Tylenol from the staff in their housing unit; (b) the staff may give six doses per twenty-four hours for a maximum of seventy-two hours; (c) use of Tylenol shall be logged, and (d) additional Tylenol is available if an inmate requests to the Medical Unit is approved.

17. For security reasons, High Security inmates are not allowed direct access to the law library, but are provided with legal materials as described below.

18. An inmate at HSF may request materials through a written request form.

19. After receiving the request form, a library staff person will obtain requested circulating books, if available, and make copies of cases.

20. The inmate is allowed 2 books and 6 cases per request at one time.

21. If an inmate already has two books and six cases outstanding, he must return materials to receive the same number of new materials.

22. The library staff places the legal materials in a tray and the materials are delivered to HSF daily, Monday through Friday.

23. Generally, the requests are responded to within 24 hours.

24. There would be several obstacles in allowing plaintiff to go to the law library at the Medium Security Facility (MSF), which is a separate facility from HSF. Every inmate at HSF must be escorted in restraints by two Adult Corrections Officers (ACO's), one of which is armed, any time the inmate leaves HSF, and he must be transported in a secure vehicle. There would be great expense in such an escort to MSF while the ACO's guarded him during library use, as well as a drain on manpower.

Further Affiant sayeth naught.

/s/ Cinda Sandin
CINDA SANDIN

Subscribed and sworn to before me
this 5th day of August 1988.

/s/ Pauldine I. Chanzchrist
Notary public, State of Hawaii
My commission expires: 2/21/91 gde

[Exhibits "A" & "B" printed at Pet. App. "G"]

EXHIBIT C

STATE OF HAWAII DEPARTMENT OF SOCIAL SERVICES AND HOUSING Corrections Division

INMATE COMPLAINT/GRIEVANCE

Aco II Jeffry Johns SH
5/3/88
1300 hrs.

Rs 5-1988

Appellant's Name: DeMONT CONNOR

Soc. Sec. No.: 576-98-9907

Branch: H.C.F. Counselor: GARY KAPLAN
(Name)

TO (Step) 1. ☒ Section Supervisor/Parole Officer
2. ☐ Branch Administrator
3. ☐ Division Administrator

RE (Check ☒) Complaint against Gary Kaplan
(Name)

☐ Grievance based on action by Program/Adjustment Committee

[or] Hindering Prosecution
(name)

STATEMENT OF FACTS:

STATEMENT OF COMPLAINT/GRIEVANCE: ON
OR ABOUT THE 26TH OF MARCH 1988, I HAD SUBMITTED A REQUEST TO COUNSELOR GARY KAPLAN

TO ALLOW ME TO CALL AN AGENT OF THE FEDERAL BEAURAL [sic] OF INVESTIGATIONS TO LODGE A COMPLAINT (CIVIL) AGAINST (6) STAFF PERSONNEL, THIS REQUEST WENT UNANSWERED. THEN ON 5/2/88 I HAD SUBMITTED ANOTHER REQUEST ON THIS SAME ISSUE, TILL NOW THERE HAS BEEN NO ANSWER.

GROUND FOR RELIEF: (1) AS A PROFESSIONAL, STAFF MEMBERS SHOULD ALWAYS CONDUCT THEMSELVES WITH THE HIGHEST DEGREE OF ETHICS, AND IT IS CLEAR TO ME NOW THAT MR. KAPLAN (WHOM I'VE HAD A HIGH RESPECT FOR, IN CARRYING HIMSELF AS A PROFESSIONAL) HAS SUNKEN TO THAT LEVEL OF UNETHICAL CONDUCT, WHEN COMES TIME TO DO HIS JOB TO SIGN MY REQUEST WHETHER IT'LL BE APPROVED OR DISAPPROVED. IF A CRIME HAS BEEN COMMITTED IT MUST BE REPORTED TO THE PROPER AUTHORITIES, AND IF IT'S AN INMATE WHO WANTS TO REPORT IT, STAFF CANNOT PREVENT OR HINDER THIS PROCESS, NO MATTER EVEN IF IT IS A FELLOW COMRADE-IN-ARMS (STAFF).

RELIEF: (1) A CRIME HAS BEEN COMMITTED AGAINST ME, AND A SUBSEQUENT CONSPIRACY HAS BEEN MADE TO COVER UP THAT CRIME, AND I ALONE CANNOT PROVE THIS, BUT WITH THE UTMOST EXPERTISE OF THE F.B.I., I WILL BE ABLE TO PROVE IT! SO I WANT TO CALL THEM IMMEDIATELY

OR BE GIVEN THEIR ADDRESS SO I CAN WRITE TO THEM!

/s/ DeMONT R.D. CONNER
Signature of Inmate

5/3/88
Date

Decision: This staff member indicates that no request of this nature was received. He or other staff will be more than willing to assist you if a proper request is received. (You may submit in letter form in a confidential envelope if you so desire.) Complaint denied.

Received: DeMONT R.D. CONNER Date: 7/13/88

Decision of: Cinda Sandin
Signature

Unit Manager
Title

7-12-88
Date

EXHIBIT D

STATE OF HAWAII
DEPARTMENT OF SOCIAL SERVICES AND HOUSING
Corrections Division

INMATE COMPLAINT/GRIEVANCE

8 Hrs.

EMERGENCY

J.A. 11/5/87 0930

Appellant's Name: DeMONT CONNER

Soc. Sec. No.: 576-98-9907

Branch: H.C.F. Counselor: JOHN CABROL
(Name)

TO (Step) 1. ☒ Section Supervisor/Parole Officer
 2. ☐ Branch Administrator
 3. ☐ Division Administrator

RE (Check ☒) Complaint against MAINTENANCE/SEC-
 OND WATCH SGT. SALGADO
 (Name)

[] Grievance based on action by Program/Adjust-
 ment Committee

[or] CRUEL AND UNUSUAL PUNISHMENT:
SUBJECTING QUAD "C"
 (Name)

STATEMENT OF FACTS:

INMATES TO SUFFER SKIN BURNS FROM SHOW-
 ERING IN HOT WATER!!!

STATEMENT OF COMPLAINT/GRIEV-
 ANCE: SOMETHING HAS GOT TO BE DONE NOW,
 ABOUT THE FACT THAT I AM BEING SUBJECTED TO
 SHOWER IN HOT WATER, OF WHICH THE SHOWER
 ONLY GIVES, THERE IS NO COLD WATER. I'VE
 WAITED FOR A MORE THEN "REASONABLE"
 AMOUNT OF TIME FOR THE MAINTENANCE TO DO
 SOMETHING ABOUT THIS SEVERE PROBLEM SINCE
 LAST WEEK TUESDAY, IT'S TIME FOR SOME ACTION.

GROUND FOR RELIEF: (1) HOW COME SEC-
 URITY CAN GO AROUND MAKING ALL THIS UNREA-
 SONABLE RULES, AND DICTATE MEDICATION, ETC.,
 BUT THEY CAN'T EVEN PUSH FOR THE MAINTE-
 NANCE CREW TO COME AND FIX OUR SHOWER. (2)
 SGT. SALGADO HAS ALREADY SHOWN THAT HE IS A
 DOCTOR, AND A GOD, BY OVER FLEXING HIS SEC-
 URITY POWERS, WHY DON'T HE TRY PLAY PLUMMER
 [sic] TOO AND FIX THE DAMN SHOWER!

RELIEF: THAT THE MAINTENANCE FIX THIS
 SHOWER NOW!

/s/ DeMONT R.D. CONNER 11-5-87
 Signature of Inmate Date

Decision: The maintenance crew was unable to correct
 the problem with the showers due to other priorities.
 However, as of this writing, the situation has been cor-
 rected.

RECEIVED: /s/ DeMONT R.D. CONNER

DATE: 1/11/88

Decision of:	<u>Acting Unit Manager</u>
/s/ <u>John Cabrol</u>	Title
Signature	<u>1/6/88</u>
	Date

EXHIBIT E

STATE OF HAWAII
 DEPARTMENT OF SOCIAL SERVICES AND HOUSING
 Corrections Division

INMATE COMPLAINT/GRIEVANCE

(This issue has also received a response from it [sic]
 second step respondent with the 15 day working day
 limit)

R.C. 2/16/87

Appellant's Name: DeMONT CONNER

Soc. Sec. No.: 576-98-9907

Branch: H.C.F. Counselor: JOHN CABRAL
 (name)

- To (Step) 1. ☐ Section Supervisor/Parol Officer
 2. ☐ Branch Administrator
 3. ☒ Division Administrator

RE (Check ☒) Complaint against
H.C.F./MEDICAL UNIT
 (Name)

☐ Grievance based on action by Program/Adjustment Committee

[or] DENIAL OF AN ADEQUATE BLANKET FOR A WHOLE MONTH. INTENTIONAL AND MALICIOUS HARASSMENT.
 (Name)

STATEMENT OF FACTS:

STATEMENT OF COMPLAINT/GRIEVANCE: THIS GRIEVANCE IS BASED ON THE FACT THAT I HAVE BEEN FORCED TO GO THROUGH A WHOLE MONTH WITHOUT AN ADEQUATE BLANKET! AND [ILLEGIBLE] (1) RESPONDED AFTER THE 15 DAY (WORKING) LIMIT, THEREFORE RENDERING HIS ANSWERS VOID. MY QUESTION IS, WHY HAVE I BEEN SUBJECTED TO WAIT AN ENTIRE MONTH BEFORE I WAS GIVEN AN ADEQUATE BLANKET, BECAUSE THE ONE THAT WAS FIRST GIVEN TO ME IS ONE THAT I AM ALLERGIC TO!

GROUND FOR RELIEF: (1) I HAVE GONE THROUGH ALL THE PROPER STEPS SO I COULD GET MY BLANKET CHANGED, AND STILL NO ONE DID ANYTHING ABOUT THE PROBLEM. I'VE REQUESTED

TO THE SGT. ON DUTY, THE COUNSELOR, THE MEDICAL UNIT, BUT ALL I RECEIVED WAS REJECTIONS AND COLD BLOODED SUFFERING FOR AN ENTIRE MONTH! (2) ALSO SOMEONE DELIBERATELY LIED TO THE OMBUDSMAN, TELLING HIM THAT THE BLANKET I HAD WAS THE SAME KIND I HAD ISSUED TO ME AT THE HIGH SECURITY FACILITY. (3) I BELIEVE THEIR [sic] WAS A CONSPIRACY, TO SEE ME SUFFER LIKE THAT!

RELIEF: (1) THAT I BE GIVEN A WRITTEN APOLOGY BY THIS INSTITUTION'S STAFF WHO WERE DIRECTLY INVOLVED IN THIS INCIDENT AND BY THE MEDICAL UNIT, FOR THEIR UNETHICAL CONDUCT AGAINST ME!

/s/ DeMont R.D. Conner
 Signature of Inmate

11-12-87
 Date

Decision: Per Step 1 decision, a special-issue blanket has been approved.

Decision of Ted Sakai
 Signature

Administrator
 Title

2/21/88
 Date

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

[Caption Omitted In Printing]

PLAINTIFF'S MEMORANDUM IN REPLY TO
DEFENDANT'S OPPOSITION TO PLAINTIFF'S
MOTION FOR A PRELIMINARY INJUNCTION

(Filed Aug. 18, 1988)

COMES NOW PLAINTIFF DEMONT R.D. CONNER, PURSUANT TO LOCAL RULES [sic] 220 AND HEREBY FILES A REPLY TO DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION.

STATEMENT OF THE CASE

PLAINTIFF FILED THIS CIVIL RIGHTS ACTION AGAINST PRISON OFFICIALS, ALLEGING VIOLATION OF HIS DUE PROCESS RIGHTS IN A DISCIPLINARY HEARING, WHICH WERE PART OF AN ONGOING CONSPIRACY TO RETALIATE AND DISCRIMINATE AGAINST PLAINTIFF IN AN ATTEMPT TO DEPRIVE PLAINTIFF OF HIS FIRST AMENDMENT RIGHT TO PETITION THE GOVERNMENT TO SEEK REDRESS OF HIS GRIEVANCES.

FACTS

1. ON AUGUST 28, 1987, PLAINTIFF WAS SUMMONED TO THE HALAWA HIGH SECURITY FACILITY'S [sic] PAROLE BOARD/INTERVIEW ROOM TO FACE AN ADJUSTMENT COMMITTEE ON THREE MISCONDUCT CHARGES.

2. THE CHARGES WERE RULE VIOLATIONS OF TITLE 17 ADMINISTRATIVE RULES OF THE CORRECTIONS DIVISION § 17-201-7 (14) AND (16); THE USE OF PHYSICAL INTERFERENCE OR OBSTACLE RESULTING IN THE OBSTRUCTION, HINDERANCE, OR IMPAIRMENT OF THE PERFORMANCE OF A CORRECTIONAL FUNCTION BY A PUBLIC SERVANT § 17-201-9(5), USING ABUSIVE OR OBSCENE LANGUAGE TO A STAFF MEMBER. § 17-201-9(12), HARASSMENT OF EMPLOYEES.

3. THE COMMITTEE CONSISTED OF UNIT MANAGER CINDA SANDIN (CHAIRMAN ALSO A NAMED DEFENDANT), SOCIAL WORKER CAROLYN CORLEY, AND A. C.O. SHOOK.¹

4. PLAINTIFF PLED NOT GUILTY TO THE THREE CHARGES, ALTHOUGH THE COMMITTEE FOUND PLAINTIFF GUILTY ON ALL THREE CHARGES.

5. PLAINTIFF'S CLAIM OF DENIAL OF DUE PROCESS AROSE OUT OF THIS ADJUSTMENT COMMITTEE HEARING WHEN DEFENDANT SANDIN DENIED PLAINTIFF:

A) HIS RIGHT TO QUESTION THE OFFICER WHOM MADE THE ALLEGATION AGAINST PLAINTIFF

B) THE RIGHT TO REVIEW THE SUBMITTED REPORTS.

C) THE RIGHT TO PRESENT (STAFF) WITNESSES ON HIS BEHALF.

¹ A.C.O. Means adult correctional officer.

D) THE RIGHT TO QUESTION THE WITNESSES WHO WERE PRESENT AT THE INCIDENT.

E) OR THE OPPORTUNITY TO POSTPONE THE HEARING UNTIL HE HAD A CHANCE TO RECEIVE ANY ONE OR A COMBINATION OF "A THROUGH D".

6. PLAINTIFF WAS SENTENCED TO 30 DAYS PUNITIVE ISOLATION IN SPECIAL HOLDING UNIT.² (HEREINAFTER S.H.U.)

7. UPON PLAINTIFF'S ENTERING S.H.U. ALL HIS LEGAL MATERIALS WERE CONFISCATED WITHOUT BEING GIVEN ANY REASON WHY, BUT PLAINTIFF WAS TOLD TO "SEE CINDA ABOUT IT".

8. DISPUTE [sic] NUMEROUS REQUESTS AND GRIEVANCES PLAINTIFF WAS UNABLE TO REGAIN HIS LEGAL MATERIALS FOR TWO MONTHS, BUT PLAINTIFF WAS GIVEN VARIOUS EXCUSES BY DEFENDANT SANDIN FOR DELAYS IN PLAINTIFF RECEIVING HIS LEGAL MATERIALS.

9. PLAINTIFF WAS ALSO NOT ABLE TO BORROW LEGAL MATERIALS FROM THE LAW LIBRARY FOR THE SAME TIME PERIOD OF TWO MONTHS DESCRIBED ABOVE.

10. ON OCTOBER 23, 1987 PLAINTIFF WAS FINALLY ALLOWED TO BORROW LEGAL MATERIALS FROM THE LAW LIBRARY, AND TO RETAIN HIS PERSONAL LEGAL MATERIALS. ALL LEGAL MATERIALS

² The special holding unit houses inmates on disciplinary phase one, administrative segregation, and protective custody.

WERE SUBJECT TO THE FOLLOWING LIMITATIONS WHICH ARE STILL PRESENTLY IMPOSED:

A) (6) SIX CASE CITES.

B) (2) LEGAL BOOKS

C) AND (2) TWO PERSONAL DOCKETED AND VERIFIED COURT CASES.

11. PLAINTIFF WAS DENIED ADEQUATE EXERCISE AND RECREATION.

12. PLAINTIFF WAS DENIED MEDICATION WHICH HE WAS ON THE MEDICAL LIST TO RECEIVE SUCH.

13. IT WAS ONLY EITHER ONE OF TWO PARTICULAR STAFF MEMBERS WHOM WOULD DICTATE WHEN PLAINTIFF COULD AND COULD NOT RECEIVE HIS MEDICATION, NAMELY, A.C.O. EDWARD MARSHAL AND EX A.C.O. JAMES CHEE.

14. PLAINTIFF HAD BEEN DENIED AN ADEQUATE BLANKET FOR ONE MONTH.

15. PLAINTIFF WAS AND IS MADE A TARGET FOR MISCONDUCTS WHICH WERE "STAFF PROVOKED," IN PART PARTICULAR: A.C.O. EDWARD MARSHAL AND EX A.C.O. JAMES CHEE.

16. PLAINTIFF WAS FOUND GUILTY ON VIRTUALLY ALL THE MISCONDUCTS DESPITE HIS BEING INNOCENT OR GUILTY.

* * *

[Material Deleted In Printing]

I DECLARE UNDER PENALTY OF PERJURY THAT
THE FOREGOING IS TRUE AND CORRECT. EXECUTED
ON AUGUST 16, 1988.

/s/ DeMONT R.D. CONNER
DeMONT R.D. CONNER,
PRO SE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

[Caption Omitted In Printing]

REPORT RECOMMENDING PARTIAL GRANTING OF
MOTION FOR PRELIMINARY INJUNCTION

(Filed Sep. 6, 1988)

A hearing was held on Plaintiff's motion for preliminary injunction in this case on August 26, 1988 before the Honorable Bert S. Tokairin. Plaintiff DeMont Conner appeared pro se, and Glenn Grayson and Frank Kim appeared for the Defendants. The court having reviewed the pleadings filed and listened to the oral argument presented hereby recommends that the motion be granted in part and denied in part.

Plaintiff DeMont Conner is a pro se prisoner litigant presently incarcerated at the Halawa Medium Security Facility (HMSF). Plaintiff filed this 42 USC 1983 action on March 14, 1985 challenging the procedure in a disciplinary hearing where he alleges that he was denied the right to question a correctional officer, to review reports submitted on the charges, or to call witnesses on his behalf. He was subsequently sentenced to 60 days in the Special Holdings Unit of the HMSF.

The plaintiff has filed two motions asking for a temporary restraining order and/or a preliminary injunction. The first motion, filed on May 3, 1988, seeks to halt alleged harassment by prison officials at HMSF. The second motion, filed on June 15, 1988, seeks similar relief and library access.

Plaintiff petitioned this court to issue a Writ of Habeas Corpus Ad Testificandum to have him produced at all hearings pertaining to this claim. Since the Defendants did not respond to any of the Plaintiff's claims this Court scheduled this hearing to give the Defendants the opportunity to respond and also because there were not sufficient facts before this Court to enable it to comprehensively rule on the Plaintiff's motions. Since the scheduling of this hearing, both parties have submitted pleadings pertaining to these motions.

In order to obtain preliminary injunctive relief Plaintiff must demonstrate either a combination or probable success on the merits and the possibility of irreparable injury or that serious questions are raised and the balance of hardships tips sharply in his favor. *Zepeda v. United States INS*, 753 F.2d 719 (9th Cir. 1983).

Protective Custody

Plaintiff seeks to be placed in protective custody and to be free from harassment and assault by prison officials (Defendants). He claims that Defendants filed false misconduct reports against him and caused him to be subjected to disciplinary segregation. However, Plaintiff has not requested protective custody from other inmates. He has failed to provide any specific reasons to justify action in separating Plaintiff from any staff members, and his claims of harassment are vague. Therefore, he has not demonstrated that he is entitled to a preliminary injunction in this area.

Library Access

Plaintiff seeks to have adequate access to the law library at HMSF stating that he has no physical access, and that his cases have been confiscated by ACO Edward Marshall. Defendants' policy is that high security inmates are not given direct access to the law library for security reasons. They must be escorted in restraints by two ACOs, one of which is armed, while transporting the inmate to the law library which is located at the Medium Security Facility. Inmates are provided with legal materials upon written request, and are allowed 2 books and 6 cases per request, and allowed to retain only that amount at any one time.

A constitutional violation of rights such as denial of access to the law library is inherently prejudicial and the inmate is entitled to either direct physical access to the library or assistance from someone trained to do research. *Toussaint v. McCarthy*, 801 F.2d 1080 (9th Cir. 1986). The state has routinely failed to provide any facts to back their broad allegations of security problem claims, and this court has determined that the problems are not overly burdensome. Judge Kay has ordered in *Smith v. Sandin*, that the following procedures be implemented by the prison in this area:

- a) Allow the inmate direct physical access to the law library commensurate to that which medium security inmates enjoy, or provide the inmate with trained legal assistance;
- b) Permit the inmate to retain personal legal materials in his cell on a permanent basis rather than the 2 book and 6 case limit;

c) Furnish the inmate with an entire writing tablet of paper and debit the inmate's account; and

d) Permit the inmate to retain an ink pen until 10:00 pm when requested.

This Court recommends that these procedures be instituted in this case also.

Miscellaneous claims

Plaintiff's other claims are that Defendants have denied Plaintiff Tylenol and cold medication, many of Plaintiff's grievances which he has filed have been lost or misplaced, Plaintiff has been denied adequate exercise and recreation, denied an adequate blanket, been subjected to a defective shower, had his mail improperly censored, and his requests for legal materials delayed.

Defendants have submitted an affidavit, and Plaintiff acknowledged at the hearing that these problems have been corrected for the most part. The defective shower was fixed as of Jan. 6, 1988, Plaintiff was provided a new blanket on Feb. 21, 1988 when he complained he was allergic to his first blanket, and inmates are given Tylenol and medication upon request when the medical staff makes daily rounds. Plaintiff's other requests have been refuted by Defendants, and they create issues of fact for trial. There has been no showing of entitlement to a preliminary injunction in these areas.

Accordingly, this Court Recommends that the motion for preliminary injunction be granted in part and denied in part as described above to give Conner the access to

courts in the manner that has been adopted and recommended by courts in this district.

DATED: Honolulu, Hawaii, SEP 6 1988.

/s/ Bert S. Tokairin
UNITED STATES
MAGISTRATE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

[Caption Omitted In Printing]

ORDER ADOPTING MAGISTRATE'S REPORT
RECOMMENDING PARTIAL GRANTING OF
MOTION FOR PRELIMINARY INJUNCTION
OF SEPTEMBER 6, 1988

(Filed Dec. 2, 1988)

This matter comes before the court on Magistrate Tokairin's Report Recommending Partial Granting of Motion for Preliminary Injunction filed September 6, 1988. Plaintiff filed objections on September 19, 1988.

Plaintiff filed a 42 U.S.C. § 1983 claim while a high security inmate at Halawa High Security Facility. In his complaint, plaintiff alleged that at a parole board misconduct hearing that he was denied the ability to confront the prison official that "wrote him up," to review the submitted reports containing the charges against him, and to call witnesses on his behalf. Plaintiff's petition to proceed in forma pauperis was granted on April 11, 1988.

Plaintiff subsequently filed an amended complaint to add two additional defendants on May 3, 1988. On the same date, plaintiff filed his Motion for Temporary Restraining Order and/or Preliminary Injunction requesting the court to direct all defendants and their agents "to halt [sic] all attempts to harass plaintiff and to abate the false charges of assaulting any person . . . until such time that a complete investigation is done by an officer of the beaural [sic] of investigations on charges of assault and conspiracy and to place plaintiff under protective custody

at H.C.F." The court notes that the state defendants failed to respond to plaintiff's motion for preliminary injunction.

A hearing was held before Magistrate Tokairin on August 26, 1988. The Magistrate partially granted the preliminary injunction only insofar as the prison must allow plaintiff access to the law library in accordance with this court's previous findings that a modicum of access is constitutionally required to ensure a prisoner's access to the court system. However, the Magistrate specifically held that plaintiff's other requested relief in his preliminary injunction was either not supported by the facts adduced at the hearing or did not meet the immediate and irreparable harm standard necessary for a court to grant a preliminary injunction.

A Magistrate's Report and Recommendation under United States District Court for the District of Hawaii Rule 404-2 is reviewed de novo for factual or legal error. The Ninth Circuit standard for review of issuance of a preliminary injunction is abuse of discretion. *Zepeda v. United States INS*, 753 F.2d 719, 724-25 (9th Cir. 1983). Abuse of discretion occurs when a decision rests on a clearly erroneous finding of fact. *Id.*, at 725. An order is reversible for legal error if the court did not employ the appropriate legal standards which govern the issuance of a preliminary injunction. *Id.*, at 724. This court finds that the Magistrate used the correct legal standard for a preliminary injunction under *Zepeda*, and that he did not base his ruling on a clearly erroneous finding of fact.

Plaintiff, in his objections, correctly enunciates the legal standard which the Magistrate used to determine

his claim for a preliminary injunction under *Zepeda, supra*. Under *Zepeda*, a plaintiff must demonstrate either a combination of probable success on the merits and the possibility of irreparable injury or that serious questions are raised and the balance of hardships tips sharply in his favor. The Magistrate grouped the plaintiff's claims into those involving protective custody, library access and miscellaneous claims.

A. Protective Custody

With regard to protective custody, the Magistrate found, based upon testimony at the hearing, that the plaintiff failed to "provide specific reasons to justify action in separating Plaintiff from any staff member, and his claims of harassment are vague." This court finds nothing in the record to contradict this finding of fact by the Magistrate. Therefore, this finding cannot be seen as clearly erroneous. More so, the plaintiff raises no specific instances of harassment in his objections and relies only on similarly vague allegations. Under the *Zepeda* standard, this is insufficient proof of immediate and irreparable harm.

B. Library Access

The Magistrate granted plaintiff's request for a preliminary injunction with regard to plaintiff's access to the law library. In so doing, the Magistrate recommended that the defendants be ordered to implement a scheme of library access similar to that ordered in *Smith v. Sandin*, Civ. No. 88-0060, Ordered filed July 14, 1988. The plaintiff does not object to this ruling.

Accordingly, the procedures to be implemented in this case by defendants are:

- a) Allow the inmate direct physical access to the law library commensurate to that which other medium security inmates enjoy, or provide the inmate with trained legal assistance;
- b) Permit the inmate to retain personal legal materials in his locker on a permanent basis rather than the 2 book and 6 case limit;
- c) Furnish the inmate with an entire writing tablet of paper and debit the inmate's account; and
- d) Permit the inmate to retain an ink pen until 10:00 pm when requested.

C. Miscellaneous Claims

In plaintiff's application for a preliminary injunction, he alleged that he had been denied Tylenol and cold medicine, a blanket, recreation, adequate showers, unjustified strip searches, that he had been the subject of fictitious misconduct reports, and that his grievances had been lost and misplaced. At the hearing, testimony established that some of these claims were now moot and therefore not the proper subject of a preliminary injunction. Specifically, plaintiff was provided with a blanket, the showers which he used had been fixed, and that the nurse makes daily rounds to distribute Tylenol and other medications.

With regard to the remaining claims, the Magistrate found that defendants factually refuted the claims. The Magistrate found that plaintiff failed to meet the burden

of establishing immediate and irreparable harm and a likelihood of success. However, the Magistrate stated that this is not fatal to Conner's claims, but that they properly are left for further proceedings or trial. From the record, the Magistrate's findings are not clearly erroneous. Plaintiff was afforded an opportunity at a hearing to establish immediate and irreparable injury and probable success on the merits or the serious questions are raised and the balance of hardships tips sharply in his favor, which he factually was unable to do. *See Zepeda, supra.*

The standard to obtain a preliminary injunction is a high standard which is rarely granted in the absence of concrete facts in support. At the hearing, facts were not brought to light justifying a preliminary injunction, except those regarding library access. As there is no contradictory evidence in the record, aside from unsubstantiated allegations, the Magistrate's findings cannot be found as clearly erroneous. It should be noted, however, that while plaintiff's motion for preliminary injunction was denied in part by the Magistrate, that the plaintiff's claims remain for trial or other future proceedings.

Accordingly, the Magistrate's Report Recommending Partial Granting of Motion for Preliminary Injunction of September 6, 1988 is ADOPTED. The defendants are hereby ordered to implement the procedures allowing for access to the Halawa Medium Security Facility, enumerated herein on page 4.

SO ORDERED.

DATED: Honolulu, Hawaii, DEC 2 1988.

/s/ Alan C. Kay
United State District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

[Caption Omitted In Printing]

AFFIDAVIT OF DeMONT R.D. CONNER

(Filed Feb. 7, 1989)

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF)
HONOLULU

I, DeMONT R.D. CONNER, BEING DULY SWORN,
DEPOSES AND SAYS:

1. THAT I AM THE PLAINTIFF IN THE ABOVE
ENTITLED ACTION AND THAT I MAKE THIS AFFI-
DAVIT IN SUPPORT OF MY MOTION FOR ORDER TO
SHOW CAUSE.

2. THAT THIS AFFIDAVIT IS BROUGHT IN
GOOD-FAITH.

3. THAT I HAVE BEEN ARBITRARILY DENIED MY
LEGAL PAPERS WHEN DEFENDANTS AGENTS BRIAN
LEE, AND WILLIAM PAAGA HAVE CONFISCATED MY
GREAT WRIT OF HABEAS CORPUS, AND THEN TOR
[sic] OUT EXHIBITS I.E. A REQUEST FORM W/BRIAN
LEE DENYING ME TO HAVE MY KORAN; AND COPIES
OF 2 CALLENDAR [sic] WHICH I WAS GOING TO USE
TO SHOW THIS COURT COPIES OF THE SAME CAL-
LENDAR [sic] THAT BRAIN LEE CONFISCATED FROM
MY CELL, WHICH POSED NO THREAT TO THE SECU-
RITY ETC. AND OF WHICH WAS BEING USED TO
MARK THE DATES WHEN I SENT OUT LEGAL MAIL,

AND TO KEEP THE DATES OF RELIGIOUS MATTERS,
AND ALSO A MOTION FOR A PRELIMINARY INJUNC-
TION WHICH WAS WRITTEN ON THE BACK OF A
GRIEVANCE FORM BECAUSE I HAD NO PAPER TO
WRITE WITH; AND 8 SHEETS OF PAPER THAT I CON-
STRUCTED WITH A PIECE OF YELLOW PAPER AND
STAPLES AND USED AS AN INDEX FOR MY LEGAL
PAPERS; AND ALSO THAT EVERYTIME I COME BACK
FROM THE LAW LIBRARY BRIAN LEE AND/OR WIL-
LIAM PAAGA ALWAYS CONFISCATES SOMETHING
FROM OR ALL OF MY LEGAL PAPERS WITH NO
ASSURANCE OF WHEN MY PAPERS WOULD BE
GIVEN BACK. I HAVE MADE REQUEST THIS 2ND DAY
OF FEBRUARY 1989 TO GO THROUGH MY LEGAL
PAPERS WHICH WERE TAKEN FROM MY CELL IN
OCTOBER 1988, BUT WAS NOT ALLOWED TO, PLAIN-
TIFFS SUSPECTS THAT THESE PAPERS ARE MISSING-
ALL 6 INCHES OF IT.

4. THAT I AM NOT GIVEN AN ENTIRE WRITING
TABLET WHEN I REQUEST FOR IT, THAT I WOULD
HAVE TO WAIT AT LEASE [sic] ONE WEEK BEFORE I
RECEIVE A WRITING TABLET, AND THAT IF I AM
NOT GIVEN 2 WRITING TABLETS TOMORROW 2-3-89
IT WILL BE AT LEASE [sic] MONDAY 2-6-89 BEFORE I
CAN EXPECT A WRITING TABLET.

5. THAT IN MID-JANUARY I WAS MADE TO
WAIT AT LEASE [sic] ONE WEEK BEFORE I GOT A
WRITING TABLET, FOR WHICH I MADE (3) REQUESTS
FOR, AND THAT SO FAR I HAVE MADE TWO
REQUESTS THIS WEEK FOR A WRITING TABLET
1-30-89 AND 2-1-89.

6. THAT ON THIS 2ND DAY OF FEBRUARY 1989 I MADE A REQUEST TO HAVE (4) SHEETS OF WRITING PAPER AND WAS NOT GIVEN ANY.

7. THAT ON 1-24-89 I WAS ONLY PERMITTED USE OF MY PEN FOR (2) HOURS FROM 7:30 PM TILL 9:30 PM; THAT ON 1-29-89 I WAS DENIED A PEN WITH INK; THAT ON 1-30-89 AFTER BEING TOLD THE PREVIOUS DAY TO DO, I REQUEST TO HAVE A NEW PEN AND WAS DENIED (4) HOURS AND TOLD TO USE MY OLD PEN WHICH HAD NO INK; THAT I HAVE NEVER BEEN ABLE TO USE MY PEN TILL 10:00 PM BECAUSE THE DEFENDANTS AGENTS COME IN AT 9:30 PM OR 9:45 PM AND COLLECT MY PEN AS THEY LOCK-DOWN BEFORE GOING HOME.

8. THAT ALL THESE ACTS DESCRIBED ABOVE BY DEFENDANTS AND THEIR AGENTS CAUSES PLAINTIFF GREAT FRUSTRATION FOR WHICH IS HARD FOR PLAINTIFF TO CONTROL.

FURTHER AFFIANT SAYETH NAUGHT.

DATED: HONOLULU, HAWAII, FEBRUARY 2, 1989.

/s/ DeMONT R.D. CONNER
DeMONT R.D. CONNER
 PRO SE
 99-902 MOANALOA HWY.
 AIEA, HAWAII 96701

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

SIGNED THIS 2ND DAY OF FEBRUARY 1989.

/s/ DeMONT R.D. CONNER
DeMONT R.D. CONNER
 PRO SE

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF HAWAII

[Caption Omitted In Printing]

AFFIDAVIT OF DeMONT R.D. CONNER

(Filed Feb. 24, 1989)

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF)
HONOLULU

I, DeMONT R.D. CONNER, UNDER PENALTY OF
PERJURY HEREBY STATES AND AVERS:

1. THAT I AM THE AFFIANT IN THE ABOVE-
ENTITLED ACTION AND THAT I MAKE THIS AFFI-
DAVIT IN GOOD FAITH AND ON BEHALF OF MY
MOTION FOR PRELIMINARY INJUNCTION.

2. THAT I AM NOT ALLOWED TO HAVE A
PRAYER RUG, PRAYER CAP, NOR A PRAYER MEDAL-
LION, ACCORDING TO DEFENDENTS RULES.

3. THAT ACCORDING TO THE INMATE GUIDE-
LINES I AM NOT ALLOWED TO HAVE SHAMPOO
WHILE IN DISCIPLINARY SEGREGATION OR PHASE
ONE, AND I AM ONLY ALLOWED TO HAVE SOAP
ONCE A WEEK.

4. THAT ON NUMEROUS OCCASIONS I HAVE
BROUGHT TO THE ATTENTION OF DEFENDANTS
AGENTS THAT MY FOOD PLATE CONTAINED PORK
BUT I WAS IGNORED, AND THAT IN OTHER
INSTANCES I DID NOT EAT CERTAIN FOODS

BECAUSE I COULD NOT BE SURE IF IT WAS PORK OR
NOT.

5. THAT I AM SERVED BREAD FROM LOVE'S
BAKERY WHICH BASED ON INFORMATION AND
BELIEF, CONTAINS "LARD" WHICH IS A PORK BI-
PRODUCT, AND THAT I DO NOT RECEIVE ANY
INFORMATION FROM RELIABLE SOURCES OF THE
FOODS THAT ARE SERVED TO ME CONTAIN PORK
OR A BI-PRODUCT OF PORK.

6. THAT BASED ON PERSONAL KNOWLEDGE
FROM WHEN I WORKED IN THE KITCHEN HERE IN
H.H.S.F. FOR TEN (10) MONTHS, THAT FOODS ARE
COOKED, EITHER PORT OR NON-PORK, WITH THE
SAME UTENSILS AND COOKING FACILITIES I.E.
GRILL, OVEN, STOVE, WITHOUT SUFFICIENT CLEAN-
ING, NOR AM I ALLOWED TO INSPECT THE KITCHEN
TO SEE IF MY FOOD IS BEING PREPARED WITHOUT
VIOLATION OF MY RELIGIOUS BELIEFS.

7. THAT I AM DENIED BY THE DEFENDANTS TO
PARTICIPATE IN JUMU'AH, WHICH IS THE FRIDAY
CONGREGATIONAL PRAYER THAT IS MANDATORY
FOR ALL MUSLIMS.

8. THAT I AM DENIED BY THE DEFENDANTS TO
HAVE RELIGIOUS COUNSELLING WITH MY MUSLIM
RELIGIOUS LEADER NAMED SAEED RASOOL.

9. THAT I AM A NEWLY CONVERTED BLACK
MUSLIM AND THAT I TAKE MY RELIGIOUS BELIEFS
IN ISLAM VERY SERIOUSLY, EVER SINCE I HAVE DIS-
COVERED FOR MYSELF THAT ISLAM IS THE TRUE

RELIGION OF GOD (ALLAH), AND THAT I AM WILLING TO LAY DOWN MY LIFE FOR ISLAM! ALL PRAISES DUE TO ALLAH

10. THAT I AM ALSO BEING CONSTANTLY HARASSED FOR BEING A MUSLIM BY THE DEFENDANTS AS LISTED IN MY AMENDED COMPLAINT.

FURTHER AFFIANT SAYETH NAUGHT.

DATED: HONOLULU, HAWAII FEBRUARY 21, 1989

/s/ DeMONT R.D. CONNER
DeMONT R.D. CONNER
 PRO SE
 99-902 MOANALUA HWY.
 AIEA, HAWAII 96701

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.
 SIGNED THIS 21ST DAY OF FEBRUARY, 1989.

/s/ DeMONT R.D. CONNER

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII

[Caption Omitted In Printing]

AFFIDAVIT OF DeMONT R.D. CONNER

(Filed Mar. 3, 1989)

STATE OF HAWAII)
) SS.
 CITY AND COUNTY OF)
 HONOLULU

I, DeMONT R.D. CONNER, BEING FIRST DULY SWORN ON OATH, DEPOSES AND SAYS:

1. THAT I AM THE PLAINTIFF IN THE ABOVE-ENTITLED MATTER AND I AM PROCEEDING IN PRO SE (COUNSEL) AND I DO MAKE THIS DECLARATION IN SUPPORT OF MY MOTION FOR A PRELIMINARY INJUNCTION.

2. THAT I HAVE BEEN DENIED, SINCE FEBRUARY OF 1987, THE RIGHT TO HAVE EDUCATIONAL CORRESPONDENCE COURSES WHILE IN MODULE "A", BECAUSE THE DEFENDANTS USE IT AS A FORM OF PUNISHMENT AND DISCRIMINATE AGAINST VARIOUS MODULE INMATES TO PROMOTE THEIR BEHAVIOR MODIFICATION SYSTEM.

FURTHER AFFIANT SAYETH NAUGHT.

DATED: HONOLULU, HAWAII FEBRUARY 28, 1989

/s/ DeMONT R.D. CONNER
DeMONT R.D. CONNER
 PRO SE
 99-902 MOANALUA HWY.
 AIEA, HAWAII 96701

I DECLARE UNDER PENALTY OF PERJURY THAT THE
 FOREGOING IS TRUE AND CORRECT. SIGNED THIS
28TH DAY OF FEBRUARY, 1989.

/s/ DeMONT R.D. CONNER
DeMONT R.D. CONNER
 PRO SE

IN THE UNITED STATES DISTRICT COURT FOR THE
 DISTRICT OF HAWAII

[Caption Omitted in Printing]

AFFIDAVIT OF DeMONT R.D. CONNER

(Filed Mar. 8, 1989)

STATE OF HAWAII)
 CITY AND COUNTY OF) SS.
 HONOLULU)

I, DeMONT R.D. CONNER, BEING FIRST DULY
 SWORN ON OATH DEPOSES AND SAYS:

1. THAT I AM THE PLAINTIFF IN THE ABOVE
 ENTITLED MATTER AND I AM PROCEEDING IN PRO
 SE (COUNSEL) AND I DO MAKE THIS DECLARATION
 IN SUPPORT OF MY MOTION FOR A PRELIMINARY
 INJUNCTION.

2. THAT THE DEFENDANTS' BEHAVIOR MOD-
 IFICATION SYSTEM FORMERLY CALLED: "SEGREGA-
 TION AND MAXIMUM CONTROL PROGRAM", HAS
 FOUR SEQUENTIAL GRADIENTS OF PROGRAMMING:
 PHASE 1; MODULES "A"; "B"; AND "C".

3. THAT DEFENDANTS BEHAVIOR MODIFICA-
 TION SYSTEM HAS NOT BEEN APPROVED BY THE
 GOVERNOR FOR THE STATE OF HAWAII SEE ALSO A
 TRUE AND CORRECT COPY OF AN AFFIDAVIT LAW-
 RENCE SHOHEIT, ATTACHED AS EXHIBIT "B".

4. THAT DEFENDANTS BEHAVIOR MODIFICA-
 TION SYSTEM IS A "RULE" THAT GOVERNS THE
 HALAWA HIGH SECURITY FACILITY.

5. THAT HALAWA HIGH SECURITY FACILITY IS AN "AGENCY" UNDER HAWAII STATE LAW.

6. THAT HALAWA HIGH SECURITY FACILITY IS A "FACILITY" GOVERNED BY CORRECTIONS DIVISION.

7. THAT BOTH STATE LAW AND CORRECTIONS DIVISION REGULATIONS PROHIBIT THE USE OF "RULES" NOT MADE IN ACCORDANCE WITH STATE LAW.

8. THAT CORRECTIONS DIVISION REGULATIONS PROHIBIT THE USE OF PUNISHMENT FOR LONGER THAN 60 DAYS UNLESS WITH THE EXPRESS WRITTEN APPROVAL OF THE CORRECTIONS DIVISION ADMINISTRATOR.

9. THAT CORRECTIONS DIVISION REGULATION REQUIRES THAT INMATES BE GIVEN NOTICE, AT LEAST 24 HOURS IN ADVANCE, FOR HEARINGS; TO HAVE SUBSTITUTE COUNSEL, CROSS EXAMINE ANY ADVERSE WITNESSES; AN OPPORTUNITY TO PRESENT EVIDENCE IN DEFENCE [sic]; AND TO SEEK ADMINISTRATIVE REVIEW OF ADVERSE FINDINGS, BEFORE PUNITIVE SANCTIONS MAY BE IMPOSED.

10. THAT CORRECTIONS DIVISION REGULATION REQUIRES A REVIEW NO LESS THAN 30 DAYS WHILE IN PUNITIVE CONFINEMENT.

11. THAT WHILE IN PHASE I, I AM NOT GIVEN: (1.) NOTICE OF HEARING; (2.) THE RIGHT TO CROSS-EXAMINE ANY ADVERSE WITNESSES; (3.) THE OPPORTUNITY TO PRESENT EVIDENCE [sic] IN MY

DEFENSE; (4) THE OPPORTUNITY TO EMPLOY SUBSTITUTE COUNSEL; (5.) NOR THE OPPORTUNITY TO SEEK ADMINISTRATIVE REVIEW.

12. THAT I AM NOT GIVEN ANY WRITTEN SUMMARY THAT WAS RELIED UPON FOR ANY ADVERSE FINDING AND I AM NOT PERMITTED TO REVIEW THE INVESTIGATION REPORT UNDER NO CIRCUMSTANCES, WHEN I'M GIVEN MY PHASE ONE REVIEWS.

13. THAT PHASE 1 STATUS, IS THE ONLY TIME I'M GIVEN ANY PERIODIC REVIEWS. I AM NOT GIVEN ANY PERIODIC REVIEWS IN MODULES "A", "B", OR "C".

14. THAT I HAVE NEVER RECEIVED ANY NOTICE THAT THE DEFENDANTS SOUGHT THE "EXPRESS WRITTEN APPROVAL FROM THE CORRECTIONS DIVISION ADMINISTRATOR "BEFORE THEY PUNISHED ME IN PUNITIVE ISOLATION CONFINEMENT FOR LONGER THAN 60 DAYS SINCE I FIRST CAME TO HALAWA HIGH SECURITY FACILITY IN SEPTEMBER 3, 1985.

15. THAT WHILE IN PHASE 1 STATUS OR MODULE "A", I AM NOT ALLOWED TO HAVE CORRESPONDENCE COURSES, WHICH EFFECTIVELY DENIES "A RIGHT TO EDUCATION".

16. THAT WHILE IN PHASE 1 AND MODULE "A", I AM NOT ALLOWED TO HAVE CORRESPONDENCE COURSES, WHICH EFFECTIVELY DENIED "A RIGHT TO EDUCATION".

17. THAT PHASE 1 STATUS HAS A DETRIMENTAL EFFECT ON MY PAROLE AND OR MINIMUM REDUCTION HEARING.

18. THAT EXCEPT FOR (1) ONE TELEPHONE CALL AND (1) EXTRA VISITING PRIVILEGE, PHASE 1 AND DISCIPLINARY SEGREGATION ONE AND THE SAME - VIRTUALLY.

19. THAT I AM SUBJECTED TO DO 60 TO 120 DAYS ON PHASE 1.

20. THAT IF I RECEIVE ANY DISCIPLINARY SEGREGATION TIME WHILE I AM ON PHASE 1 STATUS, I - WILL HAVE TO START MY PHASE 1 TIME ALL OVER AGAIN AFTER ANY DISCIPLINARY SANCTION.

21. THAT AS OF RIGHT NOW I AM JUST STARTING MY PHASE 1 STATUS, AGAIN, AFTER I RECEIVE A 14 DAY MODERATE MISCONDUCT WHICH ENDED MARCH 6, 1989, AND EVEN THOUGH I DID 40 DAYS ON PHASE 1 STATUS, AND WHICH MY 40 DAYS ARE NOT CREDITED TO MY PRESENT STATUS.

22. THAT I HAVE BEEN IN PUNITIVE ISOLATION CONFINEMENT SINCE APRIL 22, 1988, AND THAT NONE OF THE INFRACTIONS THAT I ALLEGEDLY COMMITTED, ACTUALLY HAVE ANY BEARING ON PHASE 1 STATUS, BECAUSE IF I SHOULD EVER COMPLETE THAT 120 DAYS ON PHASE 1 STATUS, I WOULD BE ALLOWED TO RETURN TO GENERAL POPULATION IN MODULE "2".

23. THAT NONE OF THE DEFENDANTS ARE LICENSED [sic] TO PRACTICE PSYCHOLOGY IN THE STATE OF HAWAII.

24. THAT DEFENDANTS' BEHAVIOR MODIFICATION SYSTEM IS BASED ON "OPERANT CONDITIONING".

25. THAT I FIND MYSELF EDGY OFTEN, ARGUMENTATIVE, AND FRUSTRATIVE BY THE WAY THE DEFENDANTS APPLY THEIR BEHAVIOR MODIFICATION SYSTEM UPON ME, WHICH I CAN SEE FROM CORRECTING DIVISION RULES AND REGULATIONS, STATE LAW, FEDERAL CASE LAW AND THE CONSTITUTION OF THE UNITED STATES, THAT THE DEFENDANTS ACTION IN APPLY [sic] THEIR SYSTEM IS ARBITRARY AND PURPOSELESS.

26. THAT I CONSTANTLY HAVE TO YELL, SCREAM, KICK ON MY DOOR AND PUNCH MY MATTRESS TO LET OUT MY FRUSTRATIONS THAT I FEEL FROM BEING PUNISHED ALL THE TIME, ESPECIALLY FOR THE VAGUE AND OVERLY BROAD RULES THAT THE DEFENDANTS ENFORCE.

27. THAT THE DESCRIBED ENFORCEMENT OF DEFENDANTS INVALID BEHAVIOR MODIFICATION SYSTEM BY DEFENDANTS, HAVE RESULTED IN A GRIEVOUS LOSS OF MY STATE-CREDITED LIBERTY INTEREST, DEMORALIZATION OF MY MENTAL ATTITUDE, UNFAIR AND ARBITRARY MASS PUNISHMENT AGAINST PLAINTIFF IN EVERY STEP OF DEFENDANTS PHASE PROGRAM.

28. THAT DEFENDANTS DO NOT EVEN SUPPLY PLAINTIFF WITH ANY WRITTEN CRITERIA THAT I NEED TO FOLLOW IN ORDER TO BE REMOVED FROM THEIR ARBITRARY AND PURPOSELESS BEHAVIOR MODIFICATION SYSTEM.

FURTHER AFFIANT SAYETH NAUGHT.

DATED: HONOLULU, HAWAII, MARCH 6, 1989.

/s/ DeMONT R.D. CONNER
DeMONT R.D. CONNER,
 PRO SE
 99-902 MOANALUA HWY.
 AIEA, HAWAII 96701

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. SIGN THIS 6TH DAY OF MARCH 1989.

/s/ DeMONT R.D. CONNER
DeMONT R.D. CONNER
 PRO SE

IN THE UNITED STATES DISTRICT COURT FOR THE
 DISTRICT OF HAWAII

[Caption Omitted in Printing]

AFFIDAVIT OF DeMONT R.D. CONNER

(Filed Apr. 6, 1989)

STATE OF HAWAII)
) SS.
 CITY AND COUNTY OF)
 HONOLULU

I, DeMONT R.D. CONNER, UNDER PENALTY OF PERJURY HEREBY STATES AND AVERS:

1. THAT I AM THE AFFIANT IN THE ABOVE-ENTITLED ACTION AND THAT I MAKE THIS AFFIDAVIT IN SUPPORT OF MY MOTION FOR PRELIMINARY INJUNCTION AND IS ALSO MADE IN GOOD-FAITH.

2. THAT I AM SUBJECTED TO DEFENDANTS EXCESSIVE USE OF MECHANICAL RESTRAINTS FOR ALL OUT-OF-CELL MOVEMENTS OTHER THAN TO THE RECREATION YARD, SHOWERS, AND DAILY MEDICATION.

3. THAT DEFENDANTS USE OF MECHANICAL RESTRAINTS CONSISTS OF HAND-CUFFS OR WAIST-CHAINS WITH HAND-CUFFS ATTACHED TO THE WAIST-CHAINS, AND LEG-IRONS KNOWN AS "SHACKLES", THE SHACKLES CONSISTS OF LOOPS AROUND EACH ANKLE CONNECTED BY A CHAIN AND A DELIBERATELY PLACED KNOT IN THE MIDST OF THE CHAIN, WHICH SHORTENS THE LENGTH OF

THE CHAIN AND STRIDE OF THE PERSON WEARING THE SHACKLES.

4. THAT ONLY INMATES CONFINED IN THE SPECIAL HOLDING UNIT OF HALAWA CORRECTIONAL FACILITY ARE SUBJECTED TO THE EXCESSIVE USE OF MECHANICAL RESTRAINTS, REGARDLESS OF THE OFFENSE OR STATUS OF THE INMATE CONFINED THEREIN.

5. THAT THE EXCESSIVE USE OF MECHANICAL RESTRAINTS IS INTENDED FOR PUNISHMENT PURPOSES AND TO PROMOTE ADVANCEMENT IN THE DEFENDANTS BEHAVIOR MODIFICATION SYSTEM.

6. THAT THE EXCESSIVE USE OF MECHANICAL RESTRAINTS PROMOTES WITHIN MYSELF A FEELING OF HARASSMENT, INTIMIDATION, AND UNDUE PUNISHMENT BEING DONE AGAINST ME BY DEFENDANTS, AND IN TURN I GAIN WHOLESOME RESENTMENT, SPITE, AND DISRESPECT TOWARDS DEFENDANTS, FOR THEIR OBVIOUS ABUSE OF THEIR AUTHORITY AND DISCRETION.

7. THAT I AM ALSO SUBJECTED TO DEFENDANTS MANDATORY STRIP-SEARCH PROCEDURE WHICH IS EXCESSIVE AND ARBITRARY.

8. THAT I AM STRIP-SEARCH [sic] EVERY TIME I LEAVE MY CELL TO GO OUT OF MY HOUSING UNIT, WHICH IS MOSTLY AN INTER FACILITY MOVEMENT, AND I AM STRIP-SEARCHED EVERY TIME I RETURN TO MY CELL FROM AN OUT-OF-HOUSING MOVEMENT WHICH ALSO INCLUDES RECREATION.

9. THAT I HAVE A DOCUMENTED HISTORY WHERE I WAS SUBJECTED TO UNREASONABLE STRIP-SEARCHES WHICH WERE CONDUCTED OUTSIDE OF PRISON POLICY AND PRACTICES, AND OF WHICH CAUSED ME UNDUE EMBARRASSMENT, HUMILIATION AND INTIMIDATION AS I FELT FEAR OF BEING PHYSICALLY ABUSED, OR A LOSS OF A PRIVILEGE AS DESCRIBED BELOW.

10. THAT ON THE 4TH DAY OF MAY 1988; I WAS ORDERED TO STRIP IN FRONT OF AT LEASE [sic] 30 INMATES WHILE I WAS AT THE HALAWA MEDIUM SECURITY'S FACILITY SPECIAL HOLDING UNIT WHEN I WAS RETURNING FROM THE RECREATION YARD NUMBER 4 INSTEAD OF FOLLOWING PROCEDURES THAT HAD REQUIRED PRISON OFFICERS TO STRIP-SEARCH INMATES IN THE RECREATION YARD AFTER THE RECREATION PERIOD WAS OVER A.C.O.'S JOHN RODRIGUEZ AND MIKE MIYAMOTO ORDERED ME OUT OF RECREATION YARD NUMBER 4, THAT RIGHT THERE IN THE WALKWAY PRECEEDING THE RECREATION YARDS AND IN CLEAR VIEW OF INMATES IN THE CELLS DIRECTLY IN FRONT OF ME, I WAS ORDERED BY THE A.C.O.'S TO "STRIP", THEN AFTER I RELUCTANTLY STRIPPED OF MY CLOTHES, I WAS ORDERED TO GO THROUGH THE ENTIRE STRIP-SEARCH PROCEDURE WHERE ALL THE INMATES IN THE CELLS WHO COULD SEE ME HAD THE OPPURTUNITY [sic] TO SEE ME. I HAD PROTESTED, BUT THE A.C.O.'S WOULD HAVE NONE OF IT. THEN WHEN I WAS RETURNED TO MY CELL, I IMMEDIATELY WROTE OUT MY GRIEVANCE WHILE I

CRIED FROM THE HUMILIATION I HAD JUST SUFFERED.

11. THAT ON THE 7TH DAY OF DECEMBER 1988, WHILE I WAS TOLD BY A.C.O. ABRAHAM LOTA TO "STRIP" AND MADE TO GO THROUGH THE ENTIRE STRIP-SEARCH PROCEDURE, I WAS ORDERED BY A.C.O. LOTA TO REMOVE MY FALSE TOOTH AT WHICH TIME A.C.O. LOTA INSTRUCTED A.C.O. GAGO TO GIVE ME THE NAPKIN SO I CAN REMOVE MY TOOTH, BUT I REFUSED AND EXPLAINED TO A.C.O. LOTA THAT (DEFENDANT) CINDA SANDIN HAD INFORMED ME THE DAY BEFORE VIA GRIEVANCE RESPONSE THAT "STAFF HAS BEEN INFORMED TO DISCONTINUE THAT PRACTICE" OF REQUIRING ME TO REMOVE MY "DENTAL APPLIANCE." BUT, A.C.O. LOTA, WHOM WAS ALSO WORKING ON THAT DAY AND SHIFT THAT I WAS GIVEN MY GRIEVANCE RESPONSE, REFUSED TO ACCEPT MY STATEMENT AND INSTEAD TOLD ME THAT I WILL NOT BE GETTING BACK MY CLOTHES UNTIL I COMPLY WITH HIS ORDER. BUT, I TOOK EVERY STRENGTH I HAD AND STOOD MY GROUND BECAUSE I WAS TIRED OF BEING HARASSED BY A.C.O. LOTA AND I KNEW THAT THIS TIME HIS SUPERIORS WOULD FINALLY BELIEVE ME THAT HE WAS HARASSING ME, BECAUSE I HAD IT IN "BLACK AND WHITE" THAT WHAT HE (A.C.O. LOTA) WAS DOING WAS CONTRARY TO WHAT HE WAS TOLD NOT TO DO. BUT HIS SUPERIORS VIRTUALLY IGNORED MY COMPLAINT VIA GRIEVANCE PROCEDURE, AND A.C.O. LOTA MADE ME STAND THERE

FOR WHAT SEEMED LIKE HOURS, BUT WAS ACTUALLY ABOUT 10 TO 15 MINUTES, TOTALLY NAKED WHILE TELLING ME THAT I SHOULD JUST MAKE IT EASIER ON MYSELF AND DO AS HE SAID, BUT I REFUSED AND TOLD HIM HE SHOULD JUST WRITE ME UP FOR DISOBEYING HIS ORDER IF HE FEELS I AM WRONG, AND I [sic] ONE POINT I HAD SCREAM [sic] TO THE TOP OF MY LUNGS CALLING FOR HELP WHEN A.C.O. LOTA MADE A MOVE TOWARDS ME LIKE HE WAS GOING TO HIT ME, WHEREBY I QUICKLY SQUATTED DOWN TO DEMONSTRATE MY FEAR OF HIM, JUST SO HE WOULDN'T HARM ME, AND I PICKED UP MY PLEAS EVEN MORE SO FOR HIM TO JUST GIVE ME BACK MY CLOTHES. I WAS SHAKING AS FEAR RAN THROUGH MY BODY AS I REGRETTED GOING TO RECREATION THAT DAY, THEN EVENTUALLY A.C.O. LOTA GAVE ME BACK MY CLOTHES AND I WAS ALLOWED TO RETURN TO MY CELL AND I THANKED ALLAH FOR ALLOWING ME TO RETURN TO MY CELL WITHOUT BEING PHYSICALLY ABUSED AND I CRIED.

11. THAT ON THIS SAME DAY 7TH OF DECEMBER 1988, I CALLED MR. DANIEL R. FOLEY ESQUIRE TO TELL HIM OF THE HORROR I HAD JUST BEEN THROUGH BECAUSE IT WAS MR. FOLEY WHO HELPED ME PUT A STOP TO DEFENDANTS POLICY WHICH REQUIRED ME TO REMOVE MY FALSE TOOTH, BUT HE WAS NOT IN HIS OFFICE SO I REPORTED MY COMPLAINT TO "TONY" WHO IS MR. FOLEY'S SECRETARY, AND "TONY" AFTER GETTING ME TO CALM DOWN EXPLAINED TO ME THAT HE WILL BRING MY COMPLAINT TO MR. FOLEY AS

SOON AS MR. FOLEY RETURNS. I STATED TO TONY THAT I AM NOT GOING TO RECREATION AGAIN BECAUSE I DON'T WANT TO HAVE TO GO THROUGH THAT HORROR AGAIN, BUT TONY WHO GAVE ME WORDS OF COURAGE STATED THAT THAT'S PROBABLY WHAT THE A.C.O.'S WANT ME TO DO, SO I SHOULD JUST BE STRONG AND NOT LET THEM STOP ME FROM GOING TO RECREATION, SO I TOOK HIS ADVICE.

12. THAT ON DECEMBER 15, 1988, I WAS AGAIN CAUGHT WITH MY CLOTHES OFF, AFTER A.C.O. BRIAN LEE (WHOM IS ONE OF THE MAIN A.C.O.'S WHO HARRASSES [sic] ME ETC. SEE AMENDED COMPLAINT) ORDERED ME TO "STRIP" AND HAD ME GO THROUGH THE STRIP-SEARCH PROCEDURE AND TOLD ME THAT I MUST REMOVE MY FALSE TOOTH, BUT AS WITH A.C.O. LOTA I EXPLAINED THAT THIS PROCEDURE WAS DISCONTINUED AND THAT I WOULD LIKE TO HAVE MY CLOTHES BACK, BUT A.C.O. LEE REFUSED AND TOLD ME TO JUST DO IT. SO, DUE TO THE FACT THAT HE HELD THE LAW LIBRARY OVER ME TO COMPLY OR IT WOULD BE CANCELLED, AND DUE TO THE FACT THAT I NEEDED TO GO TO THE LAW LIBRARY, I FORCED MYSELF TO GRAB TOILET TISSUE AND USED IT TO PULL OUT MY FALSE TOOTH SO HE COULD INSPECT IT AND MY MOUTH, AT WHICH TIME I WAS GIVEN BACK MY CLOTHES AND ALLOWED TO GO TO THE LAW LIBRARY. [NOTE: A.C.O. BRIAN LEE NEVER ACTUALLY SPOKE THE WORDS THAT I WOULD HAVE MY LIBRARY VISIT CANCELLED IF I DID NOT COMPLY, BUT HIS TACIT ACTIONS MADE ME

STRONGLY FEEL THAT WAY.] ALSO, I FILED A GRIEVANCE ON A.C.O. BRIAN LEE'S ACTIONS IN THIS INSTANCE, BUT, THIS COMPLAINT TOO WAS VIRTUALLY IGNORED.

13. THAT ON AUGUST 13, 1987, I WAS HARASSED BY THE THEN A.C.O. GORDON FURTADO, WHEN HE MADE ME REPEAT THE STRIP-SEARCH PROCEDURE, WHICH LEFT ME FEELING LIKE I WAS BEING TREATED AS A DOG. THIS WAS DONE WHILE I WAS GOING TO SEE MY FORMER RELIGIOUS COUNSELOR, MR. HENRY CHEE, AND I HAD BEEN SEEING MR. CHEE AT THAT POINT IN TIME NEARLY 2 YEARS AND I HAVE NEVER HAD BEEN STRIP-SEARCHED BEFORE GOING TO SEE MY FORMAL RELIGIOUS LEADER, (CHRISTIAN). BUT AFTER I WAS ALLOWED TO PUT BACK ON MY CLOTHES I WAS TOLD BY THE THEN, SERGEANT WILLIAM SUMMERS TO RETURN TO MY CELL AND I WAS'NT EVEN TOLD WHY, NEITHER, WAS I TOLD WHY MY RELIGIOUS COUNSELING WAS CANCELLED. UNTIL I FOUND OUT VIA GRIEVANCE RESPONSE THAT "SGT. SUMMERS, FELT THAT THE PROBLEM WAS ESCALATING SO YOU WERE RETURNED TO YOUR CELL", AND I STRONGLY FELT THAT I WAS BEING HARASSED BECAUSE JUST THE DAY BEFORE THE INCIDENT I HAD CALLED THE FEDERAL BUREAU OF INVESTIGATIONS TO COMPLAIN ABOUT SGT. SUMMERS HARASSING ME FOR MY JAIL-HOUSE LAWYER, ACTIVITIES.

14. THAT THIS INCIDENT DESCRIBED IN AFFIDAVIT OATH NUMBER 13, WAS WHAT LED TO MY BEING CHARGED WITH MISCONDUCT AND FOR

WHICH LATER RESULTED IN ME FILING MY ORIGINAL COMPLAINT IN THE ABOVE-ENTITLED ACTION, AND OF WHICH JUST TWO MONTHS AFTER I FILED MY ORIGINAL COMPLAINT, THE MISCONDUCT CHARGE WAS EXPUNGED FROM MY RECORD, EVEN AFTER I WAS DENIED SUCH RELIEF ON 3 STEPS OF APPEAL VIA GRIEVANCE PROCEDURE, BUT I WAS STILL MADE TO DO THE DISCIPLINARY SANCTION OF 30 DAY IN PUNITIVE ISOLATION WHICH LED TO 6 MONTHS.

15. I AM ALSO SUBJECTED TO STRIP-SEARCHED IN FRONT OF OTHER INMATES IN GENERAL POPULATION WHEN GOING TO AND COMING FROM RECREATION.

16. THAT I AM HUMILIATED EVERY TIME I HAVE TO STRIP IN FRONT OF OTHER INMATES AND A.C.O.'S, WHICH IS DUE IN GREAT DEAL TO THE HORRIBLE SCARS I BEAR ON MY WAIST AND RIGHT HIP WHICH SUBJECTS ME TO GAZES AS IF I AM FREAK, AND QUESTIONS ABOUT ITS OCCURRENCE [sic]. I WAS CURSED AT THE AGE OF SEVEN TO BEAR THESE HORRIBLE SCARS FOR THE REST OF MY LIFE WHEN STEAMING HOT WATER, CAME POURING DOWN ON ME FROM THE KITCHEN SINK, EVEN THOUGH MY CLOTHES, MY STOMACH, WAIST, RIGHT HIP, AND RIGHT THIGH WAS SEVERELY BURN TO THE 2ND DEGREE. THE NIGHTMARE IS RELIVED EVERY TIME I MUST RECOUNT ITS TRADEGY [sic].

17. THAT AS A MAXIMUM CUSTODY INMATE AND AN INMATE INCARCERATED IN THE HALAWA HIGH SECURITY FACILITY MY CONTACT WITH THE

PUBLIC IS VIRTUALLY NON-EXISTENT. ALL VISITS THAT ARE PRIVILEGE IN NATURE ARE NON-CONTACT E.G. FAMILY VISITS.

18. NON-CONTACT VISITS HELD IN A VISITING ROOM WHICH CONSISTS OF 12 BOOTHS THAT ARE COMPLETELY SEALED OFF FROM THE VISITOR'S ON THE OTHER SIDE BY A BULLET PROOF GLASS AND CONCRETE AND METAL PARTITIONS, WITH THE ONLY CONTACT BEING THROUGH A TELEPHONE.

19. THAT OFFICIAL VISITS AND RELIGIOUS VISITS ARE HELD IN INTERVIEW ROOMS THAT ARE DIRECTLY IN FRONT OF THE BUILDING CONTROL STATION WHICH MONITORS THE FACILITY FROM THE INSIDE.

20. THAT THE EXCESSIVE STRIP-SEARCHING IS CAUSING ME TO SUFFER MENTALLY AND EMOTIONALLY AND ALSO STRIPS ME OF MY DIGNITY.

FURTHER AFFIANT SAYETH NAUGHT.

/s/ DeMONT R.D. CONNER
DeMONT R.D. CONNER
PRO SE
99-902 MOANALUA HWY.
AIEA, HAWAII 96701

DATED: HONOLULU, HAWAII, MARCH 30, 1989.
I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT, SIGNED THIS 30TH DAY OF MARCH 1989.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

[Caption Omitted In Printing]

ORDER REGARDING VARIOUS
MOTIONS AND TRIAL SETTING

(Filed May 26, 1989)

Plaintiff DeMont Conner is a pro se prisoner litigant presently incarcerated at the Halawa Medium Security Facility (HMSF). Plaintiff filed this 42 USC 1983 action on March 14, 1985 challenging the procedure in a disciplinary hearing where he alleges that he was denied the right to question a correctional officer, to review reports submitted on the charges, or to call witnesses on his behalf. He was subsequently sentenced to 60 days in the Special Holdings Unit of the HMSF.

I.

Conner filed a motion to amend the complaint on November 8, 1988 and another motion to amend the complaint on February 15, 1989. Conner by letter received on January 6, 1989 withdrew the November 8, 1988 motion to amend the complaint. Thus, the court will consider only the February 15, 1989 motion to amend the complaint.

In the proposed amended complaint Conner asserts claims against additional named defendants who are administrators of the State prison system and Halawa Correctional Facility (HCF) and correctional officers at

HCF and the Halawa High Security Facility (HHSF). Conner claims numerous constitutional and state law violations regarding the prison's Behavior Modification Program, and other matters including inadequate access to exercise and recreation, impermissible body searches, freedom of religion and association, and deliberate indifference to his medical needs. Conner seeks declaratory relief and damages.

In *Foman v. Davis*, 371 U.S. 178, 182 (1962) the Court stated, "in the absence of any apparent or declared reason - such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to opposing party by virtue of allowance of the amendment, etc. - the leave sought should, as the rules require, be freely given."

Accordingly, since none of the above factors are evident, *Conner's motion to amend the complaint is hereby granted*. The court notes that no opposition has been filed by defendants nor has a trial schedule been previously set.

II.

Conner has filed several motions for preliminary injunction filed on February 16, 23, and 24, 1989, March 3 and 8, 1989, and April 6 and 13, 1989. The motion for preliminary injunction filed on April 13, 1989 is a consolidation of the previous motions. Conner requests the court to set a hearing date on these motions, and states that defendants have not responded to any of the motions. Subsequently on May 2, 1989 Conner filed an

Amended Notice of Preliminary Injunctions which amends the motions filed on February 23, 1989 and April 13, 1989.

Although Conner requests an expedited hearing on these motions for preliminary injunction by way of an *ex parte* motion for shortening of time for such hearing, the court sets the following schedule for the filing of memoranda addressing the above-referenced motions for preliminary injunction:

- a) Defendants shall file their opposition memorandum no later than June 23, 1989; and
- b) Plaintiff may file a reply memorandum no later than July 5, 1989.

The court shall consider this matter a non-hearing motion, and after the expiration of the above-stated dates for the filing of memoranda the court will render a decision within a reasonable period of time. Thus, Conner's *ex parte* motion for shortening of time for a hearing on his motions for preliminary injunctions is hereby *denied*.

III.

Miscellaneous Motions

Conner filed a motion to compel production of documents and answers to request for interrogatories filed on January 3, 1989. Conner's motion merely states that he seeks an order from the court compelling defendants to comply with his discovery request of June 15, 1988. There is no factual support nor a copy of the request for production of documents and answer to interrogatories. Without

such information the court is unable to determine the relevancy of the information requested by Conner.

Fed.R.Civ.P. 7(b)(1) requires that a motion "state with particularity the grounds [for the motion], and shall set forth the relief or order sought. Local Rule 220-2 requires that a notice of motion be accompanied by an appropriate memorandum or brief or by affidavits or declarations under penalty or perjury sufficient to support any material factual contentions.

In light of the above, Conner's aforesaid motion to compel discovery is *denied without prejudice* and he may file a corrected motion to compel discovery unless the issue is rendered moot should defendants respond to his discovery requests.

Next, Conner filed a motion for ordering a trial scheduling conference on February 2, 1989. The court rather than conducting a scheduling conference hereby establishes the following trial schedule which shall govern the course of this action: 1) non-jury trial shall be on February 8, 1990 at 9:00 am; 2) all motions shall be filed and discovery notice by November 20, 1989; 3) pretrial statements shall be due on December 21, 1989; 4) a final pretrial conference shall be held on January 7, 1990 at 9:00 am; 5) disclosure of the name(s) and address(es) of expert witnesses(es) [sic] to be called, and the field of expertise and curriculum vitae for each expert, if any, shall be by September 6, 1989 for plaintiff and by September 13, 1989 for defendant; (7) simultaneous exchange of expert's report(s) shall be by October 9, 1989; (8) deposition of expert witness(es) shall be completed by October 31, 1989, and (9) all discovery must be completed and all

motions must be heard no later than 30 days prior to the scheduled trial date.

The pretrial statement shall contain a narrative written statement of the facts that will be offered by oral or documentary evidence at trial, a list of all exhibits to be offered into evidence at the trial, a list of the names and addresses of all witnesses, and a summary of the anticipated testimony of any witness who is presently incarcerated.

Failure to fully disclose in the pretrial statement the substance of the evidence to be offered at trial will result in the exclusion of that evidence at the trial. The only exceptions will be matters which the court determines were not discoverable at the time of the pretrial conference, privileged matter, and matter to be used solely for impeachment purposes.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, May 26, 1989.

/s/ Bert S. Tokairin
UNITED STATES
MAGISTRATE

EXHIBIT "06"

(Filed, Along With Exhibits "07"- "14", July 6, 1989)

[SEAL]

TELEPHONE
548-6446

THEODORE I. SAKAI
ADMINISTRATOR

STATE OF HAWAII
DEPARTMENT OF SOCIAL SERVICES AND HOUSING
CORRECTIONS DIVISION
P.O. Box 339
Honolulu, Hawaii 96309

April 7, 1986

The Honorable Daniel K. Akaka
Mainland Congress
House of Representatives
Washington, DC 20515

Dear Congressman Akaka:

This is to acknowledge your letter dated March 11, 1986 regarding Halawa High Security Facility (HHSF) inmate DeMont Conner.

Mr. Conner was transferred from the Oahu Community Correctional Center (OCCC) to the Halawa High Security Facility on September 3, 1985 due to his predatory and assaultive behavior. Since being transferred to HHSF, Mr. Conner has made a remarkable change in his attitude and behavior. According to staff accounts, Mr. Conner has adjusted favorably within the confines of HHSF and has engaged in religious counseling and higher education courses. Further reports indicate that Mr. Conner has progressed through the system to where he is now housed in the unit that provides inmate work-lines.

In view of Mr. Conner's remarkable social redemption while housed at Halawa High Security Facility, it would appear that his transfer to another correctional facility would not be deemed necessary or appropriate at this time.

Should you have any further questions, may I recommend that you contact Mr. Clayton Frank, Correctional Supervisor at HHSF. He would be best able to assist you in this matter.

Sincerely,

/s/ William Oku
for Theodore I. Sakai
Administrator

EXHIBIT "07"

State of Hawaii

DEPARTMENT OF SOCIAL SERVICES AND HOUSING
Corrections Division

Administrative Program Action

To: CONNERS, DeMont 576-98-9907 April 16, 1986
(Name) (No.) (Date)

Re: Results of administrative meeting on:

- ☐ Your Program Change Request
- ☒ Your Classification/Program Review
- ☐ Your Personal Request

The Program Committee of Module C has reviewed your progress and notes your present classification as S-4/Max. The committee would

like to commend you on your behavior and attitude as well as your work as a Module Floorboy. The committee is recommending your transfer to the kitchen workline.

Your immediate supervisor will be William Roy.

You will abide by the rules and regulations of the workline as well as those of the module and facility.

Starting Date: 4/17/86

You have/have not been medically cleared:

/s/ K.N. Yurfurth 4/16/86
Medical Staff date

I approve/disapprove recommendation:

/s/ Henry K. Piikina
Support Services
Administrator date

/s/ 4/16/86
(Chairman of Committee) (Date)

Receipt of Results:

/s/ DeMont R.D. Conner 4/86
(Inmate) (Date)

EXHIBIT "08"

State of Hawaii

DEPARTMENT OF SOCIAL SERVICES AND HOUSING
Corrections Division
MONTHLY WORK EVALUATION REPORT

Date: Month of May 1986Name of Inmate: CONNOR, DeMont

Numbers of days absent: 2 (excused)
None (unexcused)

Numbers of days tardy: None (excused)
None (unexcused)

Work Classification: Kitchen

Number of work projects assigned _____

Rate of Compensation: _____

DUTIES FOR WHICH
TRAINEDNUMBER OF HOURS

<u>All around worker</u>	<u>81</u>
_____	_____
_____	_____

Number of training phases completed: _____

RATING:

	No Eval- uation	Aver- Poor	Below Aver- age	Above Aver- age	Aver- age	Excel- lent
ATTEN- DANCE			X			
WORK- MANSHIP			X			
LEARNING SPEED			X			
APPLICA- TION of Instruc- tion to Work			X			
WORK ADJUST- MENT and Adaptability			X			
REGULAR- ITY of Output				X		
RELATION- SHIP with Other Workers					X	
RELATION- SHIP with Instructor					X	
APPLICA- TION of Time				X		

CARE OF
GOVERN-
MENT
PROPERTY

X

OVERALL
RATING

X

REMARKS: His work has been slacked off since he came back to work. He had to be told what to do. He only does so much unless you tell him.

This report was discussed with me.

Signature of inmate /s/ DeMont R.D. Conner

Signature of supervisor /s/ William P. Roy

EXHIBIT "09"

State of Hawaii

DEPARTMENT OF SOCIAL SERVICES AND HOUSING
Corrections Division
MONTHLY WORK EVALUATION REPORT

Date: Month of June 1986

Name of Inmate: CONNORS [sic], DeMont

Numbers of days absent: None (excused)
None (unexcused)

Numbers of days tardy: None (excused)
None (unexcused)

Work Classification: Kitchen worker

Number of work projects assigned _____
Rate of Compensation: _____

DUTIES FOR WHICH
TRAINED

NUMBER OF HOURS

<u>All around worker</u>	<u>105 hrs.</u>
_____	_____
_____	_____

Number of training phases completed: _____

RATING:

	No Evalu- ation	Aver- Poor	Below Aver- age	Above Aver- age	Aver- age	Excel- lent
ATTEN- DANCE						X
WORK- MANSHIP						X
LEARNING SPEED						X
APPLICA- TION of Instruc- tion to Work						X
WORK ADJUST- MENT and Adaptability						X
REGULAR- ITY of Output						X
RELATION- SHIP with Other Workers						X
RELATION- SHIP with Instructor						X
APPLICA- TION of Time						X

CARE OF
GOVERN-
MENT
PROPERTY

X

OVERALL
RATING

X

This report was discussed with me.

REMARKS: He is a very good and hard worker. He has a very good attitude and gets along very well with others. His performance meets all required. He always accept [sic] his work without any talk back. For this month he has done very well.

Signature of inmate /s/ DeMont R.D. Conner

Signature of supervisor /s/ William P. Roy

EXHIBIT "10"

State of Hawaii

DEPARTMENT OF SOCIAL SERVICES AND HOUSING
 Corrections Division
 MONTHLY WORK EVALUATION REPORT

Date: Month of July 1986Name of Inmate: CONNOR, DeMont
 Numbers of days absent: None (excused)
 None (unexcused)

 Numbers of days tardy: None (excused)
 None (unexcused)
Work Classification: Kitchen

Number of work projects assigned _____

Rate of Compensation: _____

DUTIES FOR WHICH
TRAINED

NUMBER OF HOURSAll around worker111

Number of training phases completed: _____

RATING:

	No Evalu- ation	Aver- Poor	Below Aver- age	Above Aver- age	Aver- age	Excel- lent
ATTEN- DANCE						X
WORK- MANSHIP						X
LEARNING SPEED						X
APPLICA- TION of Instruc- tion to Work						X
WORK ADJUST- MENT and Adaptability						X
REGULAR- ITY of Output						X
RELATION- SHIP with Other Workers						X
RELATION- SHIP with Instructor						X
APPLICA- TION of Time						X

CARE OF
GOVERN-
MENT
PROPERTY

OVERALL
RATING

X

X

REMARKS: Conner is a very good and hard worker.
His attitude is very good. He gets along
well with others.

This report was discussed with me.

Signature of inmate /s/ DeMont R.D. Conner

Signature of supervisor /s/ William P. Roy

EXHIBIT "11"

State of Hawaii

DEPARTMENT OF SOCIAL SERVICES AND HOUSING
Corrections Division
MONTHLY WORK EVALUATION REPORT

Date: Month of August 1986

Name of Inmate: CONNOR, DeMont

Numbers of days absent: None (excused)
None (unexcused)

Numbers of days tardy: None (excused)
None (unexcused)

Work Classification: Kitchen

Number of work projects assigned _____
Rate of Compensation: _____

DUTIES FOR WHICH
TRAINED

NUMBER OF HOURS

All around worker

96 hrs.

Number of training phases completed: _____

RATING:

	No Evalu- ation	Aver- Poor	Below Aver- age	Above Aver- age	Aver- age	Excel- lent
ATTEN- DANCE						X
WORK- MANSHIP						X
LEARNING SPEED						X
APPLICA- TION of Instruc- tion to Work						X
WORK ADJUST- MENT and Adaptability						X
REGULAR- ITY of Output						X
RELATION- SHIP with Other Workers						X
RELATION- SHIP with Instructor						X
APPLICA- TION of Time						X

CARE OF
GOVERN-
MENT
PROPERTY

X

OVERALL
RATING

X

REMARKS: Conner is a good hard worker. He works with great pride. He gets along very well with others. Conner seems to always be very happy with his work. He always looks for better way [sic] to get the work done.

This report was discussed with me.

Signature of inmate /s/ DeMont R.D. Conner

Signature of supervisor /s/ William P. Roy

EXHIBIT "12"

State of Hawaii

DEPARTMENT OF SOCIAL SERVICES AND HOUSING
 Corrections Division
 MONTHLY WORK EVALUATION REPORT

Date: Month of September 1986Name of Inmate: CONNOR, DeMont
 Numbers of days absent: None (excused)
 None (unexcused)

 Numbers of days tardy: None (excused)
 None (unexcused)
Work Classification: Kitchen

Number of work projects assigned _____

Rate of Compensation: _____

DUTIES FOR WHICH
TRAINED

	<u>NUMBER OF HOURS</u>
<u>All around worker</u>	<u>106</u>
_____	_____
_____	_____

Number of training phases completed: _____

RATING:

	No Evalu- ation	Aver- Poor	Below Aver- age	Above Aver- age	Aver- age	Excel- lent
ATTEN- DANCE						X
WORK- MANSHIP						X
LEARNING SPEED						X
APPLICA- TION of Instruc- tion to Work						X
WORK ADJUST- MENT and Adaptability						X
REGULAR- ITY of Output						X
RELATION- SHIP with Other Workers						X
RELATION- SHIP with Instructor						X
APPLICA- TION of Time						X

CARE OF
GOVERN-
MENT
PROPERTY

OVERALL
RATING

X

X

REMARKS: Conner is a very good worker. He works with lots of pride and gets along well with others.

This report was discussed with me.

Signature of inmate /s/ DeMont R.D. Conner

Signature of supervisor /s/ William P. Roy

EXHIBIT "13"

State of Hawaii

DEPARTMENT OF SOCIAL SERVICES AND HOUSING
Corrections Division
MONTHLY WORK EVALUATION REPORT

Date: Month of October 1986

Name of Inmate: CONNOR, DeMont

Numbers of days absent: None (excused)
None (unexcused)

Numbers of days tardy: None (excused)
None (unexcused)

Work Classification: Kitchen

Number of work projects assigned _____
Rate of Compensation: _____

DUTIES FOR WHICH
TRAINED

NUMBER OF HOURS

All around worker	149 hrs.
_____	_____
_____	_____

Number of training phases completed: _____

RATING:

	No Evalu- ation	Aver- Poor	Below Aver- age	Above Aver- age	Aver- age	Excel- lent
ATTEN- DANCE						X
WORK- MANSHIP						X
LEARNING SPEED						X
APPLICA- TION of Instruc- tion to Work						X
WORK ADJUST- MENT and Adaptability						X
REGULAR- ITY of Output						X
RELATION- SHIP with Other Workers						X
RELATION- SHIP with Instructor						X
APPLICA- TION of Time						X

CARE OF
GOVERN-
MENT
PROPERTY

X

OVERALL
RATING

X

X

REMARKS: He is a very good and hard worker. He gets along well with others, and works with lots of pride.

This report was discussed with me.

Signature of inmate /s/ DeMont R.D. Conner

Signature of supervisor /s/ William P. Roy

EXHIBIT "14"

State of Hawaii

DEPARTMENT OF SOCIAL SERVICES AND HOUSING
 Corrections Division
 MONTHLY WORK EVALUATION REPORT

Date: Month of December 1986Name of Inmate: CONNOR, DeMont
 Numbers of days absent: None (excused)
 None (unexcused)

 Numbers of days tardy: None (excused)
 None (unexcused)
Work Classification: Kitchen Worker

Number of work projects assigned _____

Rate of Compensation: _____

DUTIES FOR WHICH
 TRAINEDNUMBER OF HOURS

<u>As assigned by supervisor</u>	<u>149 hrs.</u>
_____	_____
_____	_____

Number of training phases completed: _____

RATING:

	No Evalu- ation	Aver- Poor	Below Aver- age	Above Aver- age	Aver- age	Excel- lent
ATTEN- DANCE						X
WORK- MANSHIP					X	
LEARNING SPEED					X	
APPLICA- TION of Instruc- tion to Work					X	
WORK ADJUST- MENT and Adaptability					X	
REGULAR- ITY of Output					X	
RELATION- SHIP with Other Workers					X	
RELATION- SHIP with Instructor					X	
APPLICA- TION of Time					X	

CARE OF
GOVERN-
MENT
PROPERTY

X

OVERALL
RATING

X

REMARKS: He is a good worker and gets the job
done but tends to talk too much at times.
He has a good attitude.

This report was discussed with me.

Signature of inmate /s/ DeMont R.D. Conner

Signature of supervisor /s/ William P. Roy

EXHIBIT "36"

DEPARTMENT OF CORRECTIONS Institutions Division Halawa Correctional Facility

INMATE GUIDELINES

Segregation and Maximum Control Program (SMCP) High Security General Population

Inmates are subject to all State of Hawaii laws, Department of Corrections policies (handbook), and Halawa Correctional Facility (HCF) policies and procedures. Any deviation from these guidelines may be subject to a program hearing, disciplinary action and/or criminal charges.

The following are the guidelines for inmates programmed to the General Population phase of HCF:

SELF-REPRESENTATION

1. No inmate shall be allowed to govern or order another inmate.
2. There will be no group representation. All inmates will be self-represented.

FACILITY MOVEMENTS

3. Whenever an inmate is authorized to be moved out of the quad or module, that inmate shall be properly escorted by ACOs.
4. All inmates in the module shall be strip-searched upon leaving and returning to the module.
5. Inmates must be properly dressed in HCF uniform and footwear must be worn at all times when leaving the quad, except for

legitimate reasons. (Exceptions: Uniforms do not have to be worn at recreation and upon being escorted to court jury trials.)

QUAD MOVEMENTS

6. All quad doors shall remain locked at all times unless authorized or permitted to be opened by staff.
7. Only one inmate at a time shall normally be allowed out of his quad when authorized or permitted. (Exceptions: Recreation periods, crew workline duty, and library services.) While out of his quad, the inmate shall go directly to and from his authorized destination and not loiter, visit with other inmates, or in any way delay his return to his quad.
8. Inmates may be allowed freedom of movement within their assigned quads *during breakfast to 2:00 p.m. and dinner to 10:00 p.m.* Inmates will be in their assigned cells and cell doors will remain locked during the hours of *2:00 p.m. to dinner time and 10:00 p.m. to breakfast.* In Module A, inmates will be locked down from 10:00 p.m. to 10:00 a.m. and 2:00 p.m. to 6:00 p.m.
9. Prior to ACOs entering the quad, inmates will immediately return to their assigned cells. The television will be turned off during any lockdown and when an ACO enters the quad. At lunchtime, inmates will be locked down prior to ACOs placing food trays in the quadrants.

QUAD STANDARDS

10. Blankets, sheets, pillows, pillow cases, laundry bags, and mattresses shall be kept in the inmate's cell.
11. Upon any lockdown period, any personal property left in the dayroom and shower areas will be confiscated. A write-up will be issued.
12. Inmates are not allowed to lie down or sleep in the dayroom area. There will be no sitting on the tables.
13. Inmates will not climb walls or railings in the quadrants.
14. Inmates will not loiter on the stairway and/or walkways fronting the cells. They will not stand in front of other inmate's cell doors.
15. The program area in Quadrant 3 located on the upper level will be considered an unauthorized area; this includes the stairway leading to it.
16. Inmates are not authorized in another inmate's cell and inmates are not to allow other inmates into their cells.
17. Only one inmate shall shower at a time. Module A showers will promptly cease at 1:30 p.m. and 9:30 p.m. When the ACO orders lunch lockdown, showers will cease. Module B showers will promptly cease at 10:30 a.m., 1:30 p.m. and 9:30 p.m. Showers will resume upon the completion of the pickup of meal trays. Module C showers will be contingent on the inmate's workline.

18. There will be no exercising within quad areas except in the inmates' assigned cells.
19. No items shall be given to an ACO to be passed to another inmate.
20. No defacing of walls, windows, fixtures, and equipment. Nothing may be hung on the cell walls.
21. There will be no obstruction to the see-through glass (windows) on the cell and quad doors, windows, light fixtures, and vents.
22. Stringing of clothes lines shall not be permitted.
23. All dayroom lights and all cell lights will be turned off at 10:00 p.m. Lockdown will be completed by 10:00 p.m. All lights will be turned back on at 5:30 a.m.
24. Inmates are responsible for keeping their cells clean, orderly, and ready for inspection at all times.
25. The razor will be available for use daily as scheduled. Disposable razors shall be provided weekly by staff for each inmate's individualized use. Exceptions will be made for those scheduled for official appearances (i.e., Court, parole hearings, etc.)
26. Inmates shall not communicate with inmates from other quads.
27. Inmates shall not pass any items under their cell door and/or between quad doors to another inmate under any circumstances.

28. Inmates shall not use abusive or obscene language towards any staff member. Inmates shall not talk or make noise while staff members and visitors are in the inmate housing area.
29. Cardboard boxes, plastic containers, plastic bags, glass containers, cans, or any implement of storage shall not be permitted or stored in an inmate's cell. (Exception: Dentist/Unit Team approved containers for dentures.)
30. Inmates shall not save or store any empty cigarette packs, seeds, and chip packages, and candy wrappers, etc.
31. Jewelry and watches of any type shall not be permitted.
32. Radios, tape recorders, and all electronic entertaining devices shall not be permitted for personal retention.
33. Instruments of music shall not permitted.
34. No inmate shall have money in his possession. All money will be considered contraband and subject to confiscation. There will be no transferring of money from one HCF inmate account to another.
35. The toilet shall not be used as a disposal of discarded items. No item authorized for retention shall be flushed through the toilet except toilet paper.

MEALS

36. After meals, all trays will be put in an orderly fashion on the quad area table. Inmates will return to their assigned cells

for temporary lockdown while trays are being distributed and retrieved.

37. All meals will be consumed in the dayroom area and there will be no storing of food in the cell except for store order purchases, unless otherwise authorized.
38. Inmates will eat only the food items on their tray. There will be no giving, passing, switching, or taking of food from another inmate's tray.

AUTHORIZED ITEMS FOR RETENTION

39. Except for the items listed below, nothing else is permitted for retention by the inmate in his cell. All excess personal items will be kept in the inmate's property storage area until arrangements by the inmate can be made for them to be sent out of the facility (via, i.e., family, friends, or mail.)
 - a. One tube toothpaste (HCF issued or through inside store order only)
 - b. One toothbrush (HCF issued or through inside store order only)
 - c. One bar of soap (HCF issued)
 - d. One roll toilet paper
 - e. One comb (HCF approved)
 - f. One stick deodorant (HCF issued or through inside store order only)
 - g. One package of dental floss (through inside store order only, trade-for-trade basis)
 - h. One shampoo (through inside store order only)

- i. Two towels and two washcloths
- j. One mattress
- k. One blanket
- l. One sheet
- m. One pillow
- n. One pillow case
- o. One facility issued blanket pad
- p. Laundry bag (HCF issued)
- q. One pair slippers (HCF issued or through inside store only)
- r. One pair athletic shoes (through store order)
- s. Four issued T-shirts (white)
- t. Four undershorts (HCF issued or through store order only)
- u. Four pairs of socks (white athletic socks)
- v. One blue sweatshirt (through store order only, to be worn in the quadrant, no alteration)
- w. Uniform pants (Worklines-5 pairs, others-2 pairs)
- x. Uniform shirts (Worklines-5 pairs, others-2 pairs)
- y. Two pairs of shorts (athletic type, solid color, no pockets)
- z. One pencil

- aa. One pen (non-refillable ball point pen only)
- bb. Four sheets of writing paper (HCF issued with or without lines, i.e., typing paper not to exceed 8 1/2" x 11", indigent only)
- cc. One tablet of writing paper (HCF issued with or without lines, not to exceed 8 1/2" x 11" - issued through inside store order only. Indigent inmates with pending legal matters may request that a tablet be debited to their account. Cardboard will be removed.)
- dd. Two letter size envelopes (HCF issued - indigent)
- ee. One package of 75 letter size envelopes (through inside store order only)

Manila envelopes may be purchased or immediate use by inmates with pending legal cases. Indigent inmates with pending legal cases may request that the cost of the envelopes be debited to their account.
- ff. Stamps (limited to one book)
- gg. Four photographs (not to exceed 4" x 5")
- hh. Four incoming correspondence/letters
- ii. One *Inmate Handbook*

- jj. Reading materials (see #39)
- kk. Legal material (see #39)
- ll. One copy of "Inmate Guidelines for High Security General Population"
- mm. Three (3) daily newspapers

Authorized items for retention, as herein listed, shall not be altered or used other than the way they were intended to be used. All store ordered items shall be purchased on a trade-for-trade basis.

- 39. Inmates may possess four library books (dictionaries, recreational, or religious) and two religious pamphlets or brochures approved by the Chaplain. Inmates may possess two legal books or transcripts and six citations. Provisions may be made for inmates with pending legal cases to have additional access to materials. Inmates may be denied access to their legal materials for up to 15 days. Inmates in approved educational programs may have to additional books per program.
- 40. *Court clothes* will be permitted when necessary. They will consist of one (1) pair of dress slacks, one (1) dress shirt, one (1) pair of dress shoes, and one (1) pair of dress socks. They will be stored in the property room. Upon completion of the court case, the inmate must arrange to have the clothing sent out of the facility within 30 days.
- 41. All HCF-issued property is the inmate's responsibility. Any damage, loss, etc., to issued property may result in a misconduct

report being filed against the inmate assigned the property and may include his having to pay for the property.

PROHIBITED ITEMS

42. Anything not specifically authorized for possession, conveyance or introduction onto the HCF compound by the Facility Administrator shall be considered contraband. Inmates violating this section shall be subject to appropriate disciplinary sanctions which may include criminal charges.

COMMUNICATION

43. All requests will be in writing except for emergency situations.
44. Except in cases of medical emergency, all requests for medical attention must be in writing. No inmate shall possess any medication except as authorized by the medical unit with approval of Administration.
45. ACOs will accept requests from the inmates once daily in the morning.
46. Inmates shall communicate in the English language only; including telephone calls, visits and letters.

Exception: A written request must be submitted and approved by the Unit Manager for an inmate to speak a foreign language to a non-English speaking person which includes family members.

47. Any communication with ACOs from the quads will be done through the intercom system. Inmates will not bang on the doors to talk to ACOs.

VISITS

48. *Official visits* shall be permitted at any reasonable hour in accordance with applicable department and facility policies. Official visitors are encouraged to make prior appointments with the facility.
49. *Personal Visits* – Personal visit privileges shall ordinarily be limited to two (2) half-hour non-contact visits on weekends and one (1) half-hour non-contact visit on legal holidays as scheduled.

Special Personal Visits will be limited to off-island immediate family only. If they are unable to visit during regular visits as scheduled, they may request at least three days prior for a special visit. If approved by the United Manager, the special visit will be for one (1) hour duration during the weekdays during business hours. Airline tickets must be presented as verification of off-island status and the actual dates of stay on Oahu. Immediate family shall be defined as wife, mother, father, sister, brother, daughter, and son whether natural or hanai.

CORRESPONDENCE

50. Incoming or outgoing mail to and from inmates will be inspected and read. Privileged mail as described by the *Inmate Handbook* should normally be inspected for contraband in the presence of the inmate. Outgoing privileged mail will be stamped by the ACO. Incoming personal mail may be withheld from the inmate for up to 15 days and outgoing personal mail may be

restricted for up to 15 days in accordance with the provisions of the *Inmate Handbook*.

51. There is no restriction on *incoming personal letters* but inmates are allowed to keep only four (4) personal letters and four (4) photographs in their possession. Only personal letters may be received by inmates. All other items such as additional photographs, newspaper clippings, crossword puzzles, brochures, etc., will be placed into his property. Inmates may not enter contests through the mail.
52. Outgoing personal correspondence will not be limited except as above. The paper will be no longer than 8 1/2" x 11".
53. Inmates will be responsible for the purchase of writing materials and they are *only* purchasable through the inside store order.
54. All outgoing mail will be picked up from the quadrants, daily at lockdown; 10:00 p.m.

LIBRARY

55. Library services will be provided once a week per module.
56. There will be no returning of library books to any staff member other than the librarian. If an inmate receives an outside store order publication, it shall *not* be placed into his personal property if he is at the four (4) book limit. It is the inmate's responsibility to coordinate the ordering of publications and library to remain at the correct limit. No library books will be placed in personal property. There will be

no trading of library and personal books. Any books left in the dayroom area of the quad will be confiscated and given to the Case Manager.

LAUNDRY

57. Laundry services are provided twice a week as scheduled.
58. Blankets will be cleaned and mattresses will be sanitized at least once a month as scheduled.
59. All clothing will be marked by code to assure proper return after laundry days.

TELEVISION

60. Television privileges may be permitted during the hours of *breakfast to 2:00 p.m.* and *dinner to 10:00 p.m.* daily (Module A-10:00 a.m. to 2:00 p.m. and 6:00 p.m. to 10:00 p.m. for radios or televisions.)

TELEPHONE PRIVILEGES

61. *Personal* telephone calls will be limited to one (1) call a week. Duration is limited to ten (10) minutes per call as scheduled.
62. *Attorney Calls* - Inmates shall be permitted use of the telephone to contact their attorney once daily, except Saturday, Sunday, and holidays as time permits and limited to five (5) minutes per call. Each quad will be scheduled the use of the telephone.
63. *Ombudsman Calls* - Telephone calls to and from the Ombudsman shall be permitted at any reasonable hour without delay.

64. *Long Distance Calls* - Inmates may place long distance calls if they have sufficient funds in their spendable account. Inmates may place collect calls and they will be financially accountable if a later billing problem develops. Long distance and collect call requests must be submitted 24 hours prior to the call.

Exception: Module C - inmates may be approved by the Unit Team to accept one incoming long distance telephone call per month.

STORE ORDERS

65. Inmates shall be permitted one (1) *outside store order* per week as scheduled. Orders will be limited to \$10. Athletic shoes will be purchased separately through a request to the inmate store manager.
66. *Inside store orders* are permitted once a week as scheduled. Orders will be limited to \$15.
67. All personal items not issued will be bought through store order only.

EXERCISE PERIOD

68. Inmates shall be allowed to have a 60-minute indoor or outdoor exercise period on weekdays as scheduled excluding holidays, unless compelling security or safety reasons dictate otherwise.
69. The recreation yards have out-of-bounds areas marked with red lines. Inmates will remain within red areas.

70. Water fountain in the recreation yard shall not be used for the purpose of washing up, showering, or urination.

SMOKING PRIVILEGES

71. Cigarettes and tobacco smoking may be permitted, excluding pipes. These items may be purchased through inside store order only.
72. Inmates will not be allowed to take cigarettes out of the quad *unless* they are on worklines or have court appearances, outside appointments, etc. (Exception: Module floorboys are not permitted to take cigarettes to their workline areas.) Cigarettes will not be permitted in the law library.
73. Inmates are not allowed to smoke in the corridors while being escorted to and from their destination.
74. Any cigarettes taken out of the quad by the inmates will not be allowed back into the module.
75. Inmates will not request for cigarettes from staff. Cigarettes will be ordered through the inside store order only.

INCOMING/OUTGOING PERSONAL ITEMS

76. Court clothes may be brought in by family and friends on weekdays, except holidays, between 8:00 a.m. and 1:30 p.m. only, upon approval of the Unit Manager.
77. No books or magazines may be brought in via family and friends.

MONEY

78. *Incoming money* may be accepted through the mail in the form of money orders or cashier's checks only. Incoming money (money orders, cashier's checks, and cash) may be brought to the Medium Security Facility, Monday through Friday, 8:30 a.m. to 4:00 p.m. All money orders and cashier's checks should be made payable to the Halawa Correctional Facility with the name of the inmate shown on the check. *Personal checks will not be accepted at any time.*
79. *Outgoing money* - Inmates may make written requests to send their "spendable account" money out. The inmate is to state to whom the money is going, the amount, and the reason for the withdrawal. Upon approval by the Branch Administrator, a check will be given to the inmate's respective Case Manager for appropriate disposition.

GROOMING STANDARDS

80. Inmates are encouraged to shower and shave regularly.
81. Inmates are scheduled for haircuts regularly. Hair styles shall be in accordance with traditional standards of taste. The hair will be maintained in a neat and presentable fashion. Extreme hair styles such as mod styles or colors, unkempt hair, and exaggerated sideburns are unacceptable. Hair that is excessively long in the front, side, or back of the head is not considered appropriate. Hair length shall not touch the shoulders. "Shaved head" haircuts are not

allowed unless approved by the Branch Administrator or his designee.

82. Beards and mustaches may be allowed if they are short, clean, and groomed. Cleanliness, sanitation, security, and safety factors will be considered in determining appropriate hair, beard, and mustache styles.
83. Tattooing is prohibited.
84. Fingernails shall be maintained at a length that will not present a hazard to security and health.

These guidelines of the General Population of the HCF, may be revised, modified, or amended without notice from time to time, upon approval of the Branch Administrator.

Effective date of General Population Inmate Guidelines: Upon approval.

APPROVED:

/s/ William Oku
 William Oku,
 Branch Administrator
 11/28/88
Date

EXHIBIT "60"

DEPARTMENT OF CORRECTIONS
Institutions Division
Halawa Correctional Facility

INMATE GUIDELINES

Segregation and Maximum Control Program (SMCP)
Phase I

Inmates are subject to all State of Hawaii laws, Department of Corrections policies (handbook), and Halawa Correctional Facility (HCF) policies and procedures. Any deviation from these guidelines may be subject to a program hearing, disciplinary action and/or criminal charges.

The following are the guidelines for inmates programmed to Phase I of HCF:

SELF-REPRESENTATION

1. No inmate shall be allowed to govern or order another inmate.
2. There will be no group representation. All inmates will be self-represented.

MOVEMENTS

3. All cell doors shall remain locked at all times unless authorized or permitted to be opened.
4. Only one inmate at a time shall be allowed out of his cell when authorized or permitted. While out of his cell, he shall go directly to and from his authorized destination and not loiter, visit with other inmates, or in any way delay his return to his cell.

5. Whenever an inmate is authorized to be moved out of Special Holding, that inmate shall be leg-ironed and waist-chained at all times during his absence.
6. All inmates in Special Holding shall be strip-searched upon leaving and returning to Special Holding.
7. Inmates must be properly dressed in HCF uniform and footwear must be worn at all times when leaving Special Holding, except for legitimate reasons. (Exceptions: Uniforms do not have to be worn at recreation and upon being escorted to court jury trials.)

SPECIAL HOLDING STANDARDS

8. No defacing of walls, windows, fixtures, and equipment.
9. There will be no obstruction to the see-through glass (window) on the cell door, windows, light fixtures, and vents.
10. Stringing of clothes lines shall not be permitted.
11. Inmates shall not use abusive or obscene language towards any staff member. Inmates shall not talk or make noise while staff members and visitors are in the inmate housing area.
12. All dayroom lights and all cell lights will be turned off at 10:00 p.m. All lights will be turned back on at 5:30 a.m.
13. Inmates are responsible for keeping their cells clean, orderly, and ready for inspection at all times.

14. Razors will be available for use as scheduled. Exceptions will be made for those inmates scheduled for official appearances (i.e., Court, parole hearings, etc.) Inmates in Phase I shall normally be permitted to shave at least five times per week.
15. Television privileges shall not be permitted.
16. No item shall be given to a staff member to be passed to another inmate.
17. Blankets, sheets, pillows, pillow cases, and mattresses shall be kept in the inmate's cell and remain on the elevated concrete slab.
18. Inmates shall not pass or receive any items under their cell door to/from another inmate under any circumstance.
19. Cardboard boxes, plastic containers, plastic bags, glass containers, cans, or any implement of storage shall not be permitted or stored in an inmate's cell. (Exception: Dentist/Unit Team approved containers for dentures.)
20. Jewelry and watches of any type shall not be permitted.
21. Radios, tape recorders, and all electronic entertaining devices shall not be permitted.
22. Instruments of music shall not be permitted.
23. No inmate shall have money in his possession. All money will be considered contraband and subject to confiscation. There will be no transferring of money from one HCF inmate account to another.

24. The toilet shall not be used as a disposal for discarded items. No item authorized for retention shall be flushed through the toilet except toilet paper.
25. Inmates will not make unreasonable noise or harass others. They will not use abusive or obscene language or crude gestures to others which might provoke a response.

MEALS

26. After each meal, all trays will be put in an orderly fashion outside of the cell. *No food will be stored in the cell.*

AUTHORIZED ITEMS FOR RETENTION

27. Except for the items listed below, nothing else is permitted for retention by the inmate in his cell. All excess personal items will be kept in the inmate's property storage area until arrangements by the inmate can be made for it to be sent out of the facility (via, i.e., family, friends, or mail.)
 - a. One tube toothpaste (HCF issued or through inside store order only)
 - b. One toothbrush (HCF issued or through inside store order only)
 - c. One bar of soap (HCF issued)
 - d. One roll toilet paper
 - e. One comb (HCF approved)
 - f. One stick deodorant (HCF issued or through inside store order only)
 - g. One 6" piece of dental floss (through inside store order only, trade-for-trade basis)

- h. Two towels and two washcloths
- i. One mattress
- j. One blanket
- k. One sheet
- l. One pillow
- m. One pillow case
- n. One pair slippers (HCF issued or through inside store only)
- o. One pair athletic shoes (through store order)
- p. Four issued T-shirts (white)
- q. Four undershorts (HCF issued or through store order only)
- r. Four pairs of socks (white athletic socks)
- s. One blue sweatshirt (through store order only, to be worn in the quadrant, no alteration)
- t. Two pairs of pants (HCF uniforms)
- u. Two pairs of shorts (athletic type, solid color, no pockets)
- v. Four sheets of writing paper (with or without lines, i.e., typing paper not to exceed 8-1/2" x 11", indigent only)
- w. One pencil (Pens for legal work must be requested from staff. When approved, pens shall be provided according to a reasonable schedule and commensurate with the inmate's legal needs.)

- x. Two letter size envelopes (HCF issued - indigent)
- y. One package of 75 letter size envelopes (through inside store order only)
- z. One tablet of writing paper (with or without lines, not to exceed 8-1/2" x 11" - issued through inside store order only. Indigent inmates with pending legal matters may request that the cost of the tablet be debited to their account. Cardboard will be removed.)
- aa. Manila envelopes may be purchased for immediate use by inmates with pending legal cases upon approval of the Unit Manager. Indigent inmates with pending legal cases may request that the cost of the envelopes be debited to their account.
- bb. Two legal books or transcripts and six citations. Provisions may be made for inmates with pending legal cases to have additional access to materials. Inmates may be denied access to their legal materials for up to 15 days.
- cc. One *Inmate Handbook*
- dd. Two library books (educational or recreational) after the inmate has served 15 days for the most recent finding of guilt by an adjustment committee.
- ee. One dictionary (must be requested from staff per schedule)
- ff. One Bible or religious book and two religious pamphlets or brochures approved by the Chaplain.

- gg. Stamps (limited to one book)
- hh. Four incoming correspondence/letters
- ii. One copy of "Inmate Guidelines for Phase I"

Authorized items for retention, as herein listed, shall not be altered or used other than the way they were intended to be used. All store ordered items shall be purchased on a trade-for-trade basis.

- 28. *Court clothes* will be permitted when necessary. They will consist of one (1) pair of dress slacks, one (1) dress shirt, one (1) pair of dress shoes, and one (1) pair of dress socks. They will be stored in the property room. Upon completion of the court cases, the inmate must arrange to have the clothing sent out of the facility within 30 days.
- 29. All HCF-issued property is the inmate's responsibility. Any damage, loss, etc., to issued property may result in a misconduct report being filed against the inmate assigned the property and may include his having to pay for the property.

PROHIBITED ITEMS

- 30. Anything not specifically authorized for possession, conveyance or introduction onto the HCF compound by the Facility Administrator shall be considered contraband. Inmates violating this section shall be subject to appropriate disciplinary sanctions which may include criminal charges.
- 31. Cigars, cigarettes, tobacco in any form or derivation, and/or smoking paraphernalia

shall not be permitted. Inmates shall not request cigarettes from staff.

COMMUNICATION

- 32. All requests will be in writing except for emergency situations.
- 33. Except in cases of medical emergency, all requests for medical attention must be in writing. No inmate shall possess any medication except as authorized by the medical unit with approval of Administration.
- 34. ACOs will accept requests from the inmates once daily in the morning.
- 35. Inmates shall communicate in the English language only; including telephone calls, visits and letters.

Exception: A written request must be submitted and approved by the Unit Manager for an inmate to speak a foreign language to a non-English speaking person which includes family members.
- 36. *Official visits* shall be permitted at any reasonable hour in accordance with applicable department and facility policies. Official visitors are encouraged to make prior appointments with the facility.

Personal Visits privileges shall be limited to two (2) one-hour non-contact visits per month as scheduled, except Saturdays, Sundays, and holidays. Phone number #1 shall be utilized for non-contract visits unless otherwise instructed by staff. Immediate family may visit during personal visiting periods. Immediate family shall be

defined as wife, mother, father, sister, brother, daughter, and son – whether natural or hanai. Non-immediate family members and friends may be permitted to visit subject to the following conditions:

Requests for such visits must be made in writing by the Phase I inmate to the United Manager no less than three (3) working days prior to the date of the proposed visit. The request must be approved by the Unit Manager before it may be scheduled.

Denial of such visits will be for cause. The reasons for denial will be furnished in writing to the inmate. Where confidential information is involved, a general summary will be provided to the inmate. Denial of visits under this provision will be for the safety, security, and good government of the facility only. The prospective visitor's criminal record, if any, will be considered. Non-immediate family and friend visitors will be permitted to visit only one Phase I inmate.

Off-Island Family Visits will be limited to off-island immediate family only. When visitors are unable to visit during regular visits as scheduled, they may request at least three days prior for a special visit. If approved by the Unit Manager, the visit will be for one-hour duration on a weekday during business hours. Airline tickets must be presented as verification of off-island status and the actual dates of stay on Oahu. Immediate family shall be defined as wife,

mother, father, sister, brother, daughter, and son whether natural or hanai.

CORRESPONDENCE

37. Incoming or outgoing mail to and from inmates will be inspected and read. Privileged mail as described by the *Inmate Handbook* should normally be inspected for contraband in the presence of the inmate. Outgoing privileged mail will be stamped by the ACO. Incoming personal mail may be withheld from the inmate for up to 15 days and outgoing personal mail may be restricted for up to 15 days in accordance with the provisions of the *Inmate Handbook*.
38. There is no restriction on *incoming personal letters* but inmates are allowed to keep only four (4) personal letters in their possession. Only personal letters may be received by inmates. All other items such as additional photographs, newspaper clippings, crossword puzzles, brochures, etc., will be placed into his property. Inmates may not enter contests through the mail.
39. Outgoing personal correspondence will not be limited except as above. The paper will be no longer than 8-1/2" x 11". All outgoing mail will be picked up from the cells daily at lights out (10:00 p.m.)

LAUNDRY

40. Laundry services are provided twice a week as scheduled.
41. Blankets will be cleaned and mattresses will be sanitized at least once a month as scheduled.

42. All clothing will be marked by code to assure proper return after laundry days.

TELEPHONE

43. Inmates shall be permitted one (1) official telephone call per day as scheduled and limited to five (5) minutes, except Saturdays, Sundays, and holidays. Telephone calls to and from the Ombudsman shall be permitted at any reasonable hour without delay. Personal telephone calls will be limited to one (1) scheduled personal telephone call per month, not to exceed ten (10) minutes.

STORE ORDERS

44. Inmates with available funds may purchase, upon approval of the Special Holding ACO IV, and through the inmate commissary, only items authorized for the Special Holding Unit. These items shall be purchased *only* as they are needed and on a trade-for-trade basis. No other items are allowed to be purchased.

EXERCISE PERIOD

45. Inmates shall be allowed to have five 60-minute indoor or outdoor exercise periods per week as scheduled unless compelling security or safety reasons dictate otherwise.

SHOWERS

46. Inmates will be given the opportunity to shower at least five (5) times per week for a time not to exceed ten (10) minutes, unless compelling security or safety reasons dictate otherwise. No toothbrush or comb will be brought out of the inmate's cell.

47. Razors will be provided to inmates for use in their cell for a time not to exceed five minutes, five times per week. Disposable razors shall be provided weekly by staff for each inmate's individualized use.

INCOMING/OUTGOING PERSONAL ITEMS

48. Court clothes may be brought in by family and friends on weekdays, except holidays, between 8:00 a.m. and 1:30 p.m. only, upon approval of the Unit Manager.
49. No books or magazines may be brought in via family and friends.

MONEY

50. *Incoming money* may be accepted through the mail in the form of money orders or cashier's checks only. Incoming money (money orders, cashier's checks, and cash) may be brought to the Medium Security Facility, Monday through Friday, 8:30 a.m. to 4:00 p.m. All money orders and cashier's checks should be made payable to the Halawa Correctional Facility with the name of the inmate shown on the check. *Personal checks will not be accepted at any time.*
51. *Outgoing money* - Inmates may make written requests to send their "spendable account" money out. The inmate is to state to whom the money is going, the amount, and the reason for the withdrawal. Upon approval by the Branch Administrator, a check will be given to the inmate's respective Case Manager for appropriate disposition.

GROOMING STANDARDS

52. Inmates are to encouraged shower and shave regularly.
53. Inmates are scheduled for haircuts regularly. Hair styles shall be in accordance with traditional standards of taste. The hair will be maintained in a neat and presentable fashion. Extreme hair styles such as mod styles or colors, unkept hair, and exaggerated sideburns are unacceptable. Hair that is excessively long in the front, side, or back of the head is not considered appropriate. Hair length shall not touch the shoulders. "Shaved head" haircuts are not allowed unless approved by the Branch Administrator or his designee.
54. Beards and mustaches may be allowed if they are short, clean, and groomed. Cleanliness, sanitation, security, and safety factors will be considered in determining appropriate hair, beard, and mustache styles.
55. Tattooing is prohibited.
56. Fingernails shall be maintained at a length that will not present a hazard to security and health.

These guidelines of the Segregation and Maximum Control Program (SMCP), Phase I, may be revised, modified, or amended without notice from time to time, upon approval of the Branch Administrator.

[Effective date of SMCP Phase I guidelines: Upon approval.]

APPROVED:

/s/ William Oku
William Oku,
 Branch Administrator
 11/28/88
Date

EXHIBIT "61"

DEPARTMENT OF CORRECTIONS
Institutions Division
Halawa Correctional Facility

INMATE GUIDELINES

Segregation and Maximum Control Program (SMCP)
Disciplinary Segregation

Inmates are subject to all State of Hawaii laws, Department of Corrections policies (handbook), and Halawa Correctional Facility (HCF) policies and procedures. Any deviation from these guidelines may be subject to a program hearing, disciplinary action and/or criminal charges.

The following are the guidelines for inmates programmed to the Disciplinary Segregation phase of HCF:

SELF-REPRESENTATION

1. No inmate shall be allowed to govern or order another inmate.
2. There will be no group representation. All inmates will be self-represented.

MOVEMENTS

3. All cell doors shall remain locked at all times unless authorized or permitted to be opened.
4. Only one inmate at a time shall be allowed out of his cell when authorized or permitted. While out of his cell, he shall go directly to and from his authorized destination and not loiter, visit with other inmates, or in any way delay his return to his cell.

5. Whenever an inmate is authorized to be moved out of Special Holding, that inmate shall be leg-ironed and waist-chained at all times during his absence.
6. All inmates in Special Holding shall be strip-searched upon leaving and returning to Special Holding.
7. Inmates must be properly dressed in HCF uniform and footwear must be worn at all times when leaving Special Holding, except for legitimate reasons. (Exceptions: Uniforms do not have to be worn at recreation and upon being escorted to court jury trials.)

SPECIAL HOLDING STANDARDS

8. No defacing of walls, windows, fixtures, and equipment.
9. There will be no obstruction to the see-through glass (window) on the cell door, windows, light fixtures, and vents.
10. Stringing of clothes lines shall not be permitted.
11. Inmates shall not use abusive or obscene language towards any staff member. Inmates shall not talk or make noise while staff members and visitors are in the inmate housing area.
12. All dayroom lights and all cell lights will be turned off at 10:00 p.m. All lights will be turned back on at 5:30 a.m.
13. Inmates are responsible for keeping their cells clean, orderly, and ready for inspection at all times.

14. Razors will be available for use as scheduled. Exceptions will be made for those inmates scheduled for official appearances (i.e., Court, parole hearings, etc.) Inmates in disciplinary segregation shall normally be permitted to shave at least five times per week.
15. Television privileges shall not be permitted.
16. No item shall be given to a staff member to be passed to another inmate.
17. Blankets, sheets, pillows, pillow cases, and mattresses shall be kept in the inmate's cell and remain on the elevated concrete slab.
18. Inmates shall not pass or receive any items under their cell door to/from another inmate under any circumstance.
19. Cardboard boxes, plastic containers, plastic bags, glass containers, cans, or any implement of storage shall not be permitted or stored in an inmate's cell. (Exception: Dentist/Unit Team approved containers for dentures.)
20. Jewelry and watches of any type shall not be permitted.
21. Radios, tape recorders, and all electronic entertaining devices shall not be permitted.
22. Instruments of music shall not be permitted.
23. No inmate shall have money in his possession. All money will be considered contraband and subject to confiscation. There will be no transferring of money from one HCF inmate account to another.

24. The toilet shall not be used as a disposal for discarded items. No item authorized for retention shall be flushed through the toilet except toilet paper.
25. Inmates will not make unreasonable noise or harass others. They will not use abusive or obscene language or crude gestures to others which might provoke a response.

MEALS

26. After each meal, all trays will be put in an orderly fashion outside of the cell. *No food will be stored in the cell.*

AUTHORIZED ITEMS FOR RETENTION

27. Except for the items listed below, nothing else is permitted for retention by the inmate in his cell. All excess personal items will be kept in the inmate's property storage area until arrangements by the inmate can be made for it to be sent out of the facility (via, i.e., family, friends, or mail.)
 - a. One tube toothpaste (HCF issued or through inside store order only)
 - b. One toothbrush (HCF issued or through inside store order only)
 - c. One bar of soap (HCF issued)
 - d. One roll toilet paper
 - e. One comb (HCF approved)
 - f. One stick deodorant (HCF issued or through inside store order only)
 - g. One 6" piece of dental floss (through inside store order only, trade-for-trade basis)

- h. Two towels and two washcloths
- i. One mattress
- j. One blanket
- k. One sheet
- l. One pillow
- m. One pillow case
- n. One pair slippers (HCF issued or through inside store only)
- o. One pair athletic shoes (through store order)
- p. Four issued T-shirts (white)
- q. Four undershorts (HCF issued or through store order only)
- r. Four pairs of socks (white athletic socks)
- s. One blue sweatshirt (through store order only, to be worn in the quadrant, no alteration)
- t. Two pairs of pants (HCF uniforms)
- u. Two pairs of shorts (athletic type, solid color, no pockets)
- v. Four sheets of writing paper (with or without lines, i.e., typing paper not to exceed 8-1/2" x 11", indigent only)
- w. One pencil (Pens for legal work must be requested from staff. When approved, pens shall be provided according to a reasonable schedule and commensurate with the inmate's legal needs.)

- x. Two letter size envelopes (HCF issued - indigent)
- y. One package of 75 letter size envelopes (through inside store order only)
- z. One tablet of writing paper (with or without lines, not to exceed 8-1/2" x 11" - issued through inside store order only. Indigent inmates with pending legal matters may request that the cost of the tablet be debited to their account. Cardboard will be removed.)
- aa. Manila envelopes may be purchased for immediate use by inmates with pending legal cases upon approval of the Unit Manager. Indigent inmates with pending legal cases may request that the cost of the envelopes be debited to their account.
- bb. Two legal books or transcripts and six citations. Provisions may be made for inmates with pending legal cases to have additional access to materials. Inmates may be denied access to their legal materials for up to 15 days.
- cc. One *Inmate Handbook*
- dd. Two library books (educational or recreational) after the inmate has served 15 days for the most recent finding of guilt by an adjustment committee.
- ee. One dictionary (must be requested from staff per schedule)
- ff. One Bible or religious book and two religious pamphlets or brochures approved by the Chaplain.

- gg. Stamps (limited to one book)
- hh. Four incoming correspondence/letters
- ii. One copy of "Inmate Guidelines for Disciplinary Segregation"

Authorized items for retention, as herein listed, shall not be altered or used other than the way they were intended to be used. All store ordered items shall be purchased on a trade-for-trade basis.

- 28. *Court clothes* will be permitted when necessary. They will consist of one (1) pair of dress slacks, one (1) dress shirt, one (1) pair of dress shoes, and one (1) pair of dress socks. They will be stored in the property room. Upon completion of the court cases, the inmate must arrange to have the clothing sent out of the facility within 30 days.
- 29. All HCF-issued property is the inmate's responsibility. Any damage, loss, etc., to issued property may result in a misconduct report being filed against the inmate assigned the property and may include his having to pay for the property.

PROHIBITED ITEMS

- 30. Anything not specifically authorized for possession, conveyance or introduction onto the HCF compound by the Facility Administrator shall be considered contraband. Inmates violating this section shall be subject to appropriate disciplinary sanctions which may include criminal charges.
- 31. Cigars, cigarettes, tobacco in any form or derivation, and/or smoking paraphernalia

shall not be permitted. Inmates shall not request cigarettes from staff.

COMMUNICATION

- 32. All requests will be in writing except for emergency situations.
- 33. Except in cases of medical emergency, all requests for medical attention must be in writing. No inmate shall possess any medication except as authorized by the medical unit with approval of Administration.
- 34. ACOs will accept requests from the inmates once daily in the morning.
- 35. Inmates shall communicate in the English language only; including telephone calls, visits and letters.

Exception: A written request must be submitted and approved by the Unit Manager for an inmate to speak a foreign language to a non-English speaking person which includes family members.

- 36. Visit privileges shall be limited to immediate family and to official visitors (i.e., legal counsel, Ombudsman, etc.) Immediate family shall be defined as mother, father, sister, brother, daughter, son, and wife; whether natural or hanai.

Official visits shall be permitted at any reasonable hour in accordance with applicable department and facility policies. Official visitors are encouraged to make prior appointments with the facility.

Family visits shall be scheduled after the inmate has served 15 days for his most

recent finding of guilt by an adjustment committee. Visits shall be limited to one half-hour non-contact visit per month as scheduled except Saturdays, Sundays and holidays. Phone number 1 will be utilized for non-contact visits unless otherwise instructed by staff. The inmate will submit a request to the Unit Manager specifying who will visit three days prior to the anticipated visit.

Off-Island Family Visits – when visitors are unable to visit during regular visits as scheduled, they may request ahead of time to have such visits rescheduled. If approved by the Unit Manager, the visit will be for one (1) half-hour duration on a weekday during business hours. Airline tickets must be presented as verification of off-island status and the actual dates of stay on Oahu.

CORRESPONDENCE

37. Incoming or outgoing mail to and from inmates will be inspected and read. Privileged mail as described by the *Inmate Handbook* should normally be inspected for contraband in the presence of the inmate. Outgoing privileged mail will be stamped by the ACO. Incoming personal mail may be withheld from the inmate for up to 15 days and outgoing personal mail may be restricted for up to 15 days in accordance with the provisions of the *Inmate Handbook*.
38. There is no restriction on *incoming personal letters* but inmates are allowed to keep only four (4) personal letters in their possession. Only personal letters may be received by

inmates. All other items such as additional photographs, newspaper clippings, crossword puzzles, brochures, etc., will be placed into his property. Inmates may not enter contests through the mail.

39. Outgoing personal correspondence will not be limited except as above. The paper will be no longer than 8-1/2" x 11". All outgoing mail will be picked up from the cells daily at lights out (10:00 p.m.)

LAUNDRY

40. Laundry services are provided twice a week as scheduled.
41. Blankets will be cleaned and mattresses will be sanitized at least once a month as scheduled.
42. All clothing will be marked by code to assure proper return after laundry days.

TELEPHONE

43. Inmates shall be permitted one (1) official telephone call per day as scheduled and limited to five (5) minutes, except Saturdays, Sundays, and holidays. Telephone calls to and from the Ombudsman shall be permitted at any reasonable hour without delay. Personal telephone calls may be permitted only in an emergency and upon approval by the ranking staff member in the Special Holding Unit.

STORE ORDERS

44. Inmates with available funds may purchase, upon approval of the Special Holding ACO IV, and through the inmate

commissary, only items authorized for the Special Holding Unit. These items shall be purchased *only* as they are needed and on a trade-for-trade basis. No other items are allowed to be purchased.

EXERCISE PERIOD

45. Inmates shall be allowed to have five 60-minute indoor or outdoor exercise periods per week as scheduled unless compelling security or safety reasons dictate otherwise.

SHOWERS

46. Inmates will be given the opportunity to shower at least five (5) times per week for a time not to exceed ten (10) minutes, unless compelling security or safety reasons dictate otherwise. No toothbrush or comb will be brought out of the inmate's cell.
47. Razors will be provided to inmates for use in their cell for a time not to exceed five minutes, five times per week. Disposable razors shall be provided weekly by staff for each inmate's individualized use.

INCOMING/OUTGOING PERSONAL ITEMS

48. Court clothes may be brought in by family and friends on weekdays, except holidays, between 8:00 a.m. and 1:30 p.m. only, upon approval of the Unit Manager.
49. No books or magazines may be brought in via family and friends.

MONEY

50. *Incoming money* may be accepted through the mail in the form of money orders or

cashier's checks only. Incoming money (money orders, cashier's checks, and cash) may be brought to the Medium Security Facility, Monday through Friday, 8:30 a.m. to 4:00 p.m. All money orders and cashier's checks should be made payable to the Halawa Correctional Facility with the name of the inmate shown on the check. *Personal checks will not be accepted at any time.*

51. *Outgoing money* - Inmates may make written requests to send their "spendable account" money out. The inmate is to state to whom the money is going, the amount, and the reason for the withdrawal. Upon approval by the Branch Administrator, a check will be given to the inmate's respective Case Manager for appropriate disposition.

GROOMING STANDARDS

52. Inmates are encouraged to shower and shave regularly.
53. Inmates are scheduled for haircuts regularly. Hair styles shall be in accordance with traditional standards of taste. The hair will be maintained in a neat and presentable fashion. Extreme hair styles such as mod styles or colors, unkept hair, and exaggerated sideburns are unacceptable. Hair that is excessively long in the front, side, or back of the head is not considered appropriate. Hair length shall not touch the shoulders. "Shaved head" haircuts are not allowed unless approved by the Branch Administrator or his designee.

54. Beards and mustaches may be allowed if they are short, clean, and groomed. Cleanliness, sanitation, security, and safety factors will be considered in determining appropriate hair, beard, and mustache styles.
55. Tattooing is prohibited.
56. Fingernails shall be maintained at a length that will not present a hazard to security and health.

These guidelines of the Segregation and Maximum Control Program (SMCP), Disciplinary Segregation phase, may be revised, modified, or amended without notice from time to time, upon approval of the Branch Administrator.

[Effective date of SMCP Disciplinary Segregation guidelines: Upon approval.]

APPROVED:

/s/ William Oku
William Oku,
 Branch Administrator
11/28/88
 Date

IN THE UNITED STATES DISTRICT COURT FOR THE
 DISTRICT OF HAWAII

DeMONT R.D. CONNER,
 PLAINTIFF,

CIVIL No. 88-0169
ACK

vs.

AMENDED
 COMPLAINT

THEODORE SAKAI, WILLIAM
 OKU, CINDA SANDIN, STATE OF
 HAWAII, HAROLD FALK,
 LAURENCE SHOHET, LEONARD
 GONSALVES, KIM THORBURN
 M.D., FRANCIS SEQUEIRA,
 WILLIAM SUMMERS, ROBERT
 JOHNSON, GORDON FURTADO,
 ABRAHAM LOTA, EDWARD
 MARSHAL, WILLIAM PAAGA,
 BRIAN LEE,

IN THEIR INDIVIDUAL AND
 OFFICIAL CAPACITIES,
 DEFENDANTS.

(Filed Sept. 8, 1989)

AMENDED COMPLAINT
CIVIL RIGHTS COMPLAINT WITH A JURY DEMAND

This is a CIVIL RIGHTS ACTION filed under 42 U.S.C. SECTIONS 1983, 1985(3), and 1986 by DeMONT R.D. CONNER, A STATE PRISONER, alleging violations of his CONSTITUTIONAL RIGHTS and seeking DECLARATORY JUDGMENT, INJUNCTIVE RELIEF and MONEY DAMAGES. Plaintiff Requests a trial by jury.

JURISDICTION

1. This is a CIVIL RIGHTS ACTION under 42 U.S.C.

SECTIONS 1983, 1985(3), 1986. This Court has Jurisdiction under 28 U.S.C. SECTION 1343(3). Plaintiff also invokes the PENDENT JURISDICTION of this Court. Defendant STATE has waived IMMUNITY to be sued Pursuant to SECTION 662-2 of the Hawaii Revised Statutes ("H.R.S.") and is to be treated like any Private individual.

PARTIES

2. Plaintiff DeMONT R.D. CONNER, is a State prisoner incarcerated in the Halawa High Security Facility ("H.H.S.F.") a Complex within the Halawa Correctional Facility ("H.C.F.).

3. Defendant THEODORE SAKAI ("SAKAI"), is a Resident of the State of Hawaii. He is, and was at all times herein relevant, the ACTING ADMINISTRATOR of the Department of Institutions, which is within the Department of Corrections.

4. Defendant WILLIAM OKU ("OKU"), is a Resident of the State of Hawaii. He is, and was at all times herein relevant the Administrator of H.C.F.

5. Defendant CINDA SANDIN ("SANDIN"), is a Resident of the State of Hawaii. She is, and was at all times herein relevant the Unit Team Manager of H.H.S.F.

6. Defendant HAROLD FALK ("FALK"), is a Resident of the State of Hawaii. He is, and was at all times herein relevant the Director of Corrections. AND is a

LEGALLY AUTHORIZED Representative of Defendant State of Hawaii ("STATE").

7. Defendant LAURENCE SHOHEH ("SHOHEH"), is a Resident of the State of Hawaii. He is, and was at all times herein relevant, the Corrections Supervisor II, which is the highest ranking position at H.C.F.

8. Defendant LEONARD GONSALVES ("GONSALVES"), is a Resident of the State of Hawaii. He is, and was at all times herein relevant, the Chief of Security of H.C.F.

9. Defendant KIM THORBURN ("THORBURN"), is a Resident of the State of Hawaii. She is, and was at all times herein relevant, the Health Care Director of Corrections.

10. Defendant FRANCIS SEQUEIRA ("SEQUEIRA"), is a Resident of the State of Hawaii. He is and was at all times herein relevant a Unit Manager of H.C.F.

11. Defendant WILLIAM SUMMERS ("SUMMERS"), is a Resident of the State of Hawaii. He was at the times herein relevant, a Sergeant [sic] of H.H.S.F.

12. Defendant ROBERT JOHNSON ("JOHNSON"), is a Resident of the State of Hawaii. He is, and was at all times herein relevant, a Serjeant [sic] of H.H.S.F.

13. Defendant GORDON FURTADO ("FURTADO"), is a Resident of the State of Hawaii. He was at the times herein relevant, an Adult Correctional Officer ("A.C.O.") IV of H.H.S.F.

14. Defendant ABRAHAM LOTA ("LOTA"), is a Resident of the State of Hawaii. He is, and was at all times herein relevant, a Temporary Acting Sergeant of H.H.S.F.

15. Defendant EDWARD MARSHAL ("MARSHAL"), is a Resident of the State of Hawaii. He is, and was at all times herein relevant, an A.C.O. III of H.H.S.F.

16. Defendant WILLIAM PAAGA ("PAAGA"), is a Resident of the State of Hawaii. He is and was at all times herein relevant, an A.C.O. II of H.H.S.F.

17. Defendant BRIAN LEE ("LEE"), is a Resident of the State of Hawaii. He is and was at all times herein relevant, an A.C.O. III of H.H.S.F.

STATEMENT OF FACTS

18. PLAINTIFF SEEKS DECLARATORY AND INJUNCTIVE RELIEF FOR DEPRIVATION UNDER COLOR OF STATE LAW, FOR THE RIGHTS, PRIVILEGES, AND IMMUNITIES SECURED BY THE UNITED STATES CONSTITUTION, AND IN PARTICULAR, THOSE SECURED BY THE FIRST, FOURTH, FIFTH, SIXTH, EIGHTH, AND FOURTEENTH AMENDMENTS THEREOF.

19. PLAINTIFF SPECIFICALLY SEEK [sic] RELIEF FROM CONDITIONS WHICH FALL BELOW THE STANDARD OF HUMAN DECENCY, DENY BASIC HUMAN NEEDS AND INFLECTS NEEDLESS SUFFERING ON

PRISONERS, PLAINTIFF FURTHER CONTENDS THAT HE IS FORCED TO LIVE IN AN ENVIRONMENT WHERE THE ILL-EFFECTS OF PARTICULAR CONDITIONS WHICH THREATEN HIS PHYSICAL AND MENTAL WELL-BEING AND RESULTS UNNECESSARILY ON HIS PHYSICAL AND MENTAL DETERIORATION.

20. DEFENDANTS HAVE IMPOSED UPON PLAINTIFF A REPRESSIVE, ARBITRARY, AND IRRATIONAL BEHAVIOR MODIFICATION PROGRAM WHICH IS SO TOTALLY DEVOID OF PENOLOGICAL JUSTIFICATION THAT IT IS PUNITIVE.

21. DEFENDANTS INSTITUTED A NEW BEHAVIOR MODIFICATION SYSTEM APPROXIMATELY MARCH OF 1981, IT WAS IMPOSED ON ALL MAXIMUM CLASSIFICATION INMATE [sic], THE PROGRAM WAS DESIGNED BY PERSONS WITH NO SPECIALIZED TRAINING IN THIS AREA, AND THE SAID PROGRAM WAS NOT TESTED NOR VALIDATED.

22. DEFENDANTS BEHAVIOR MODIFICATION PROGRAM DENIES PLAINTIFF DUE PROCESS OF LAW AND EQUAL PROTECTION OF THE LAW BY NOT POSTING WRITTEN GUIDELINES FOR PLAINTIFF TO KNOW EXPECTED BEHAVIOR TO BE RELEASED FROM PHASE ONE, AND MODULES "A", "B", AND "C".

23. DEFENDANTS BEHAVIOR MODIFICATION PROGRAM DENIES PLAINTIFF AND ALL INMATES PERIODIC REVIEWS, IN MODULES "A", "B", AND "C" TO MAKE DETERMINATIONS CONCERNING HIS BEHAVIOR AND FOR ADVANCEMENT THROUGH DEFENDANTS BEHAVIOR MODIFICATION PROGRAM OR PHASING SYSTEM.

24. DEFENDANTS BEHAVIOR MODIFICATION PROGRAMS' PHASE ONE DENIES PLAINTIFF A NOTICE, HEARINGS, OR ANY INPUT INTO THE 30 DAY REVIEWS, AND SUCH REVIEWS ARE CONDUCTED BY PERSONS WHO DO NOT HAVE ANY CONTACT WITH PLAINTIFF, AND RELIES SOLELY ON A SUBJECTIVE CRITERIA.

25. DEFENDANTS PHASE ONE SUBJECTS PLAINTIFF TO AN INDEFINITE PERIOD OF CONFINEMENT AND SERVES NO JUSTIFIABLE PENOLOGICAL PURPOSE AND IS A MERE RELABELING OF DISCIPLINARY SEGREGATION AND IS PUNITIVE.

26. DEFENDANTS PHASE ONE AND DISCIPLINARY SEGREGATION SUBJECTS PLAINTIFF TO INADEQUATE EXERCISE AND RECREATION OF BOTH OUTDOOR AND INDOOR, WHILE PLAINTIFF IS CONFINED FOR AT LEAST 22 HOURS A DAY.

27. DEFENDANTS DENY PLAINTIFF WHILE IN PHASE ONE AND DISCIPLINARY SEGREGATION TO USE THE INDOOR GYMNASIUM WHEN THEY FOR SOME REASON CANCEL OUTDOOR RECREATION AND INSTEAD SUBJECTS PLAINTIFF TO CONDUCT HIS RECREATION IN HIS CELL WHICH IS THE SAME PLACE HE EATS, SLEEPS, AND LIVES FOR 22 HOURS A DAY, AND WHICH ALSO WAS NOT CONSTRUCTED FOR RECREATIONAL PURPOSES AND ALSO WHICH DOES NOT PROVIDE ADEQUATE SPACE TO HAVE RECREATION.

28. DEFENDANTS PHASE ONE AND DISCIPLINARY SEGREGATION IS IN THE SPECIAL HOLDING UNIT WHICH USES STRIP CELLS FOR PUNISHMENTS

WHICH ASPECTS SUBJECTS PLAINTIFF TO CRUEL AND UNUSUAL PUNISHMENT BY HAVING A MATTRESS [sic] ON MERE 6 INCH SLAB ABOVE THE GROUND, INADEQUATE LIGHTING, NO DESKS AND TABLES TO EAT AND WRITE ON, AND OF WHICH SUBJECTS PLAINTIFF TO HAVE HIS FOOD SERVED FROM UNDER THE CELL DOOR ON THE FLOOR, WHICH IS DEHUMANIZING AND HAS A PSYCHOLOGICAL AFFECT UPON PLAINTIFF.

29. DEFENDANTS DENY PLAINTIFF TO RECEIVE PICTURES, BROCHURES, NEWSPAPER CLIPPINGS, RELIGIOUS MATERIALS, AND CROSSWORD PUZZLES [sic] THROUGH THE MAIL WHILE IN PHASE ONE AND DISCIPLINARY, AND INSTEAD ONLY PERMIT HIM TO HAVE LETTERS, WITH ONLY THE ENGLISH LANGUAGE WRITTEN ON IT.

30. DEFENDANTS DISCRIMINATE AGAINST PLAINTIFF AND ALL INMATES ON PHASE ONE AND DISCIPLINARY SEGREGATION FOR ACCESS TO ADEQUATE MEDICAL AND DENTAL CARE.

31. DEFENDANTS DENY PLAINTIFF RELIGIOUS COUNSELING WHILE IN PHASE ONE AND DISCIPLINARY SEGREGATION.

32. DEFENDANTS DENY PLAINTIFF PSYCHOLOGICAL AND PSYCHIATRIC EXAMINATIONS WHILE HE IS HOUSED IN PHASE ONE AND DISCIPLINARY SEGREGATION.

33. DEFENDANTS SUBJECTED PLAINTIFF TO 17 HOURS A DAY OF PUNITIVE CONFINEMENT FOR NO JUSTIFIABLE PENOLOGICAL PURPOSE WHILE

HOUSED IN MODULE "A", WITHOUT ANY CHARGES OF MISCONDUCT, NOTICE, HEARINGS, OPPORTUNITY TO RESPOND, OR PRESENT WITNESSES, OR EVIDENCE ON HIS BEHALF.

34. DEFENDANTS SUBJECT PLAINTIFF TO DOUBLE CELLING, IN MODULE "A" WHICH ONE PERSON MUST SLEEP ON THE FLOOR BECAUSE THE CELL HAS ONLY ONE BUNK, AND MODULE "A"'S CELLS DO NOT PROVIDE ADEQUATE LIGHTING.

35. DEFENDANTS DENY PLAINTIFF THE OPPORTUNITY TO PARTICIPATE IN EDUCATIONAL, VOCATIONAL, AND COUNSELING PROGRAMS THAT ARE MANDATED BY STATE LAW, WHILE, HOUSED IN MODULE "A".

36. DEFENDANTS SUBJECT PLAINTIFF TO MASS PUNISHMENT BY CONFISCATING THE WEIGHTS IN MODULE "A" DUE TO ONE INMATES' ATTEMPT TO USE IT TO ESCAPE, EVEN THOUGH DEFENDANTS REMEDIED THE SITUATION BY COVERING ALL RECREATION YARDS WITHIN THE FACILITY; AND DEFENDANTS ALSO USE THE WEIGHTS FOR PUNITIVE PURPOSES IN ATTEMPTING TO HAVE PLAINTIFF CONFORM HIS BEHAVIOR BEFORE HE MAY HAVE ACCESS TO WEIGHTS WHICH ARE LOCATED IN MODULES "B" AND "C".

37. DEFENDANTS ARBITRARILY DENY PLAINTIFF TO WHAT LITTLE RIGHTS HE STILL POSES [sic] IN PRIVACY BY SUBJECTING HIM TO A "BLANKET POLICY" STRIP-SEARCH PROCEDURE, EVERY TIME HE LEAVES HIS HOUSING AREA AND RETURNS TO HIS HOUSING AREA, AND WHEN HE IS BOUND BY

LEG-IRONS AND HAND-CUFFS OR WAIST CHAINS, AND WITH AT LEAST TWO A.C.O.'S WHERE EVER HE GOES, AND PHYSICAL CONTACT WITH OTHER INMATES IS VIRTUALLY NON-EXISTENT; AND IF HE IS MEETING WITH ANY BODY FROM THE OUTSIDE (OFFICIAL VISITS) THE INTERVIEW ROOMS THAT ARE USED TO HOLD THE VISIT ARE THOROUGHLY SEARCHED, AND ALL VISITORS ARE PAT-FRISKED; AND IF HE IS HAVING A PERSONAL VISIT, THESE VISITS ARE NON-CONTACT WITH A BULLET RESISTENT [sic] INCH THICK GLASS AND CONCRETE AND STAINLESS STEEL SEALING OFF PLAINTIFF FROM HIS VISITOR, AND THE ONLY CONTACT THAT MAY BE HAD IS THROUGH A TELEPHONE, AND A.C.O.'S MONITOR THESE VISITS THROUGH A TWO-WAY MIRROR, AND THE A.C.O.'S WHO ESCORT HIM THERE DO A THOROUGH SEARCH OF THE VISITING AREA BEFORE PERMITTING PLAINTIFF TO ENTER DEFENDANTS STRIP-SEARCH POLICY IS AN EXAGGERATION OF SECURITY, AND IMPERMISSABLY INTRUDES ON PLAINTIFF PRIVACY AND CAUSES PLAINTIFF TO SUFFER MENTAL AND EMOTIONAL ANGUISH THROUGH DEHUMANIZATION OF HIS PERSON.

38. DEFENDANTS DENY ALL INMATES AND PLAINTIFF ADEQUATE EXERCISE AND RECREATION IN MODULES "A"; "B"; AND "C" ALSO WITH ONLY 60 MINUTES OF RECREATION TIME OUTDOORS ONLY FIVE DAYS A WEEK, WITH NO ALLOWANCE FOR MAKE UP TIME SHOULD OUTDOOR RECREATION IS [sic] CANCELLED FOR ANY VARIETY OF REASONS,

AND THE USE OF THE INDOOR GYMNASIUM IS VIRTUALLY NON-EXISTENT.

39. DEFENDANTS DENY PLAINTIFF HIS RIGHT TO FREEDOM OF EXPRESSION AND ASSOCIATION BY IMPOSING A "PUBLISHER ONLY RULE", REGARDING BOOKS AND MAGAZINES, AND OF WHICH DENIES HARD BOUND COVERED BOOKS; ALSO IN ORDER FOR PLAINTIFF TO BE ABLE TO RECEIVE SUCH BOOKS HE HAS TO DONATE IT TO THE STATE LIBRARY, WHEREBY HE CANNOT KEEP HIS PURCHASED BOOKS. DEFENDANTS ALSO DENY PLAINTIFF TO SUBSCRIBE TO ANY BOOK AND MAGAZINE COMPANY.

40. PLAINTIFF WHILE CONFINED IN H.H.S.F. HAS BEEN SUBJECTED TO CONSPIRACIES TO RETALIATE, HARASS, AND RETRIBUTION BY PARTICULAR DEFENDANTS, FOR PLAINTIFF WORK AS A JAIL-HOUSE LAWYER; AND THESE ARBITRARY AND CAPRICIOUS ACTS BY PARTICULAR DEFENDANTS DO NOT LEAD TO ANY ADVANCEMENT TO LEGITIMATE GOALS OF H.H.S.F. NOR ARE THESE ACTS TAILORED NARROWLY ENOUGH TO ACHIEVE SUCH GOALS.

41. THAT ON JUNE 23, 1987 PLAINTIFF BECAME AWARE THAT HE TOO, LIKE OTHER JAIL-HOUSE LAWYERS IN H.H.S.F. WAS A TARGET FOR RETALIATION BY PRISON AUTHORITIES WHEN, VIA GRIEVANCE RESPONSE PLAINTIFF WAS TOLD BY THE THEN ACTING UNIT MANAGER FRANCIS SEQUEIRA (DEFENDANT) THAT "YOUR BEHAVIOR PREDICATES ADVANCEMENT TO MODULE "B", WHEN INDEED

PLAINTIFF HAS HELD A VIRTUAL POSITIVE BEHAVIOR SINCE HIS ARRIVAL TO H.H.S.F. IN SEPTEMBER 3, 1985, AND THAT THERE IS STRONG EVIDENCE THAT PLAINTIFF CAN SHOW THAT THIS RESPONSE AND DECISION TO HOLD PLAINTIFF BACK FROM ADVANCING IN DEFENDANTS BEHAVIOR MODIFICATION PROGRAM, WAS DUE TO HIS INVOLVEMENT IN JAIL-HOUSE LAWYER ACTIVITIES.

42. THAT DEFENDANTS SEQUEIRA AND SUMMERS CONSPIRED TO RETALIATE AGAINST ME FOR FILING A COMPLAINT AGAINST THEM FOR RETALIATING AGAINST ME AND HARASSING ME BY FILING A MALICIOUSLY MOTIVATED MISCONDUCT REPORT AGAINST PLAINTIFF FOR REFUSING TO OBEY DEFENDANT SUMMERS' ORDER WHICH DEFENDANT SEQUEIRA CORROBORATED, BUT PLAINTIFF PROVED THAT DEFENDANTS WERE LYING IN THEIR REPORT, AND THE COMMITTEE FOUND PLAINTIFF NOT GUILTY DUE TO DEFENDANT SUMMERS "CONFLICTING TESTIMONY". THIS MISCONDUCT WAS FILED AGAINST PLAINTIFF TO HAVE HIM PUNISHED IN PUNITIVE ISOLATION.

43. THAT DEFENDANTS SUMMERS AND FURTADO AND SANDIN ENTERED INTO A CONSPIRACY TO DEPRIVE PLAINTIFF OF HIS CONSTITUTIONALLY PROTECTED RIGHTS BY MALICIOUSLY CHARGING PLAINTIFF WITH MISCONDUCT, THEN HOLDING A "MOCK ADJUSTMENT HEARING" WHERE DEFENDANT SANDIN DENIED PLAINTIFF OF HIS FUNDAMENTAL RIGHTS TO DUE PROCESS WHEN SHE REFUSED PLAINTIFF HIS RIGHT TO QUESTION THE CHARGING A.C.O. WHO WROTE ME UP, BEING

DEFENDANT FURTADO, TO REVIEW THE SUBMITTED REPORTS CONCERNING THE CHARGES, AND TO CALL WITNESSES, OR TO EVEN POSTPONE THE HEARING SO I MAY EXERCISE MY RIGHT TO A FAIR HEARING. DEFENDANT SANDIN FURTHERMORE HARMED PLAINTIFF BY DOCTORING HIS TESTIMONY TO USE IT AGAINST HIM.

44. THAT DEFENDANT SANDIN FURTHERED HER PART IN THE CONSPIRACY TO DEPRIVE PLAINTIFF OF HIS RIGHTS BY HAVING THE SPECIAL HOLDING STAFF CONFISCATE PLAINTIFF'S LEGAL PROPERTY AS HE ENTERED SPECIAL HOLDING (HEREINAFTER "S.H.U.I.") AND WITHHOLDING HIS LEGAL PROPERTY FOR NEARLY TWO MONTHS.

45. THAT DEFENDANTS SUMMERS, FURTADO, AND SANDIN'S CONSPIRACY CAME AFTER PLAINTIFF CALLED THE FEDERAL BUREAU OF INVESTIGATIONS CHARGING DEFENDANT SUMMERS WITH DISCRIMINATION FOR HIS ACTIVITIES AS A JAILHOUSE LAWYER.

46. THAT DEFENDANT MARSHAL TOOK PART IN THE CONSPIRACY WHEN HE BEGAN TO CONSTANTLY HARASS AND HUMILIATE PLAINTIFF BY CHARGING PLAINTIFF WITH FALSE CHARGES OF MISCONDUCT, CALLING PLAINTIFF A RAPIST, REFUSING PLAINTIFF MEDICATION, AND REFUSING PLAINTIFF USE OF CLEANING EQUIPMENT, AND DELIBERATELY PROVOKING PLAINTIFF.

47. DEFENDANT MARSHAL'S ACTIONS IN THE ABOVE DESCRIBED EPISODES TOOK PLACE DURING SEPTEMBER 1987 TO DECEMBER 1987. THEN ON TWO

SEPARATE OCCASIONS IN JUNE 1988, DEFENDANT MARSHAL CONFISCATED A TOTAL OF SEVEN (7) OF PLAINTIFF'S PERSONAL CASE LAW CITATIONS FROM HIS CELL.

48. DEFENDANT MARSHAL FURTHERED HIS MALICIOUS ACTS AGAINST PLAINTIFF BY PROVOKING PLAINTIFF INTO MISCONDUCT WHEN HE DENIED PLAINTIFF TOILET PAPER WHICH CAUSED PLAINTIFF SUCH MENTAL ANGUISH THAT HE STARTED TO CUSS DEFENDANT MARSHAL, THEN DEFENDANT MARSHAL SINGLED PLAINTIFF OUT BY HAVING PLAINTIFF TO GO THROUGH TWO STRIP-SEARCHES AND ONE CELL SEARCH TO SEE IF PLAINTIFF DIDN'T HAVE TOILET PAPER IN HIS CELL. THIS INCIDENT TOOK PLACE ON OCTOBER 7, 1988, AND PLAINTIFF WAS ALSO CHARGED WITH FIRST DEGREE TERRORISTIC THREATENING OF DEFENDANT MARSHAL WHICH DEFENDANT PAAGA DENIED KNOWING ANYTHING OF THIS INCIDENT WHEN HE WAS IN FACT INVOLVED.

49. DEFENDANT LOTA ENGAGED IN HIS OWN RETALIATION AGAINST PLAINTIFF WHEN HE REFUSED TO GIVE PLAINTIFF HIS CLOTHES DURING A STRIP-SEARCH ROUTINE, FOR AN INDEFINITE PERIOD OF TIME DUE TO PLAINTIFF'S REFUSAL TO REMOVE HIS FALSE-TOOTH, WHICH DEFENDANT LOTA WAS TOLD TO DISCONTINUE THIS PRACTICE.

50. DEFENDANT LEE ALSO ENGAGED IN RETALIATION AGAINST PLAINTIFF WHEN HE TOO ATTEMPTED AND SUCCEEDED IN HAVING PLAINTIFF REMOVE HIS FALSE-TOOTH WHILE USING THE

LAW LIBRARY AS A TOOL TO FORCE PLAINTIFF TO COMPLY, WHEN PLAINTIFF WAS BEING STRIP-SEARCHED BEFORE GOING TO THE LAW LIBRARY.

51. DEFENDANT LEE CONTINUED HIS MALICIOUS ACTS AGAINST PLAINTIFF ALONG WITH DEFENDANT PAAGA BY CONDUCTING SEARCHES OF PLAINTIFF'S CELL AND LEAVING IT IN A SHAMBLES [sic], AND TELLING PLAINTIFF TO CLEAN IT UP. THIS TOOK PLACE ON TWO SEPARATE OCCASIONS, ONE OF WHICH DEFENDANT PAAGA DELIBERATELY KICKED PLAINTIFF'S LEGAL MATERIALS INTO PLAINTIFF'S FACE. THESE DEFENDANTS ALSO CONFISCATED PLAINTIFF [sic] LEGAL PAPERS

52. DEFENDANT GONSALVES SUBJECTED PLAINTIFF TO DEFAMATIONS OF HIS CHARACTER WHEN DEFENDANT GONSALVES REPEATEDLY TOLD PLAINTIFF THAT HE HAS A REPUTATION FOR BEING A "CHRONIC COMPLAINER", WHEN PLAINTIFF REVEALED TO DEFENDANT GONSALVES OF HIS SUBORDINATES ARBITRARY CONDUCTS AGAINST PLAINTIFF, AND WHEREBY TOTALLY IGNORING PLAINTIFF'S GRIEVANCES.

53. DEFENDANTS ALSO DENY PLAINTIFF DUE PROCESS OF LAW BY THEIR ARBITRARY USE OF #106 MINOR MISCONDUCT FORMS AS MANDATED BY STATE LAW, AND DEFENDANTS IN FACT CONDONE THE ARBITRARY USE OF #106 MINOR MISCONDUCTS, WHICH PLAINTIFF IS NOT GIVEN A CHANCE TO DEFEND HIMSELF, OR OFFER MITIGATING EVIDENCE, AND PLAINTIFF IS TOLD TO SIGN THE #106

MINOR MISCONDUCT FORMS BY THE SAME OFFICER THAT WROTE HIM UP.

54. DEFENDANTS DENY PLAINTIFF, ARBITRARILY, HIS RIGHT TO FREEDOM OF SPEECH BY PROMULGATION A RULE THAT ALL INMATES WILL SPEAK IN THE ENGLISH LANGUAGE ONLY. THIS RULE ALSO INTRUDES ON HIS RELIGIOUS BELIEF'S BECAUSE AS A MUSLIM HE MUST SAY HIS PRAYERS IN ARABIC, AND PLAINTIFF WHILE LEARNING TO SPEAK ARABIC PRAYERS PROPERLY WITH ANOTHER FELLOW MUSLIM, HE WAS ORDERED BY DEFENDANT LEE TO STOP, BUT WHEN PLAINTIFF REFUSED, HE WAS WRITTEN UP FOR DISOBEYING AN ORDER. DEFENDANTS "ENGLISH SPEEING [sic] ONLY" RULE IMPERMISSIBLY INTERFERES WITH PLAINTIFF [sic] CONSTITUTIONALLY PROTECTED RIGHTS.

OFFICIAL RESPONSIBILITIES

DEFENDANT FALK WHO IS THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS, HAS THE RESPONSIBILITY FOR THE PROMULGATION AND ENFORCEMENT OF RULES, REGULATIONS, POLICIES, AND PRACTICES; AND HE IS FULLY AWARE OF THE BEHAVIOR MODIFICATION PROGRAM AT H.H.S.F. AND HAS ALLOWED IT TO CONTINUE TO BE ENFORCED UPON INMATES.

DEFENDANT THEODORE SAKAI, WHO HAS BEEN DEFENDANT OKU'S SUPERIOR FOR MANY YEARS, HAS REFUSED TO REMEDY THE CONSTITUTIONALLY DEFICIENT ASPECTS OF THE BEHAVIOR MODIFICATION SYSTEM AT H.H.S.F. DEFENDANT SAKAI, IS

ALSO RESPONSIBLE FOR REFUSING TO REMEDY DEFENDANT SUMMERS AND SANDIN'S ARBITRARY ACTS AGAINST PLAINTIFF, THAT HE KNEW OR SHOULD HAVE KNOWN [sic] WERE AGAINST POLICY AND VIOLATIVE OF PLAINTIFFS RIGHTS.

DEFENDANT OKU AND SHOHET ARE RESPONSIBLE FOR PROMULGATING THE BEHAVIOR MODIFICATION PROGRAM AT H.H.S.F. AND ENFORCING IT UPON INMATES, AND THEY KNEW OR SHOULD HAVE KNOWN WAS VIOLATIVE OF PLAINTIFF'S FEDERALLY [sic] AND STATE RIGHTS.

DEFENDANT THORBURN IS RESPONSIBLE FOR ALLOWING H.H.S.F. TO OPERATE UNDER INADEQUATE MEDICAL AND DENTAL CONDITIONS AND ALLOWING PLAINTIFF AND ALL INMATES TO BE DISCRIMINATED WITH REGARDS TO TREATMENT WHILE IN PUNITIVE ISOLATION.

CLAIMS

THE ACTIONS OF THE DEFENDANTS STATED IN PARAGRAPHS 18 TO 54, DENIED PLAINTIFF HIS RIGHTS SECURED UNDER THE FIRST, FOURTH, FIFTH, SIXTH, EIGHTH, FOURTEENTH AMENDMENTS OF THE UNITED STATE CONSTITUTION. PLAINTIFF'S RIGHTS WERE VIOLATED WHEN;

(A) DEFENDANTS IMPERMISSIBLY INTRUDED UPON PLAINTIFF'S MENTAL FACULTY BY SUBJECTING PLAINTIFF TO A BEHAVIOR MODIFICATION PROGRAM THAT ACCORDING TO STATE LAW IS A TYPE THEY

ARE NOT QUALIFIED AND LICENSED TO ENGAGE IN;

(B) DEFENDANTS FORCED UPON PLAINTIFF THEIR BEHAVIOR MODIFICATION PROGRAM THAT WAS NOT APPROVED BY THE GOVERNOR OF THE STATE OF HAWAII AS REQUIRED BY STATE LAW IN ORDER TO HAVE THE "FORCE AND EFFECT OF LAW" IN ORDER TO BE VALID;

(C) DEFENDANTS SUBJECTED PLAINTIFF TO PUNITIVE ISOLATION IN THEIR BEHAVIOR MODIFICATION PROGRAM WITHOUT DUE PROCESS OF LAW; AND TO PUNITIVE CONFINEMENT THAT IS CONTRARY TO STATE LAW AND STATUTES;

(D) DEFENDANTS DENIED PLAINTIFF ADEQUATE EXERCISE AND RECREATION WHICH IS MANDATED BY STATE LAW, AND REQUIRED BY THE EIGHTH AMENDMENT;

(E) DEFENDANTS IMPERMISSIBLY INTRUDED ON PLAINTIFFS PRIVACY BY SUBJECTING HIM TO AN ARBITRARY STRIP-SEARCH POLICY;

(F) DEFENDANTS ARBITRARILY USED THE #106 MINOR MISCONDUCT FORMS AGAINST PLAINTIFF WITHOUT DUE PROCESS OF LAW;

(G) DEFENDANTS ENGAGED IN A "DELIBERATE INDIFFERENCE" POLICY TO PLAINTIFF AND ALL INMATES MEDICAL NEEDS WHILE CONFINED IN SPECIAL HOLDING;

(H) DEFENDANTS DENIED AND/OR INTERFERED WITH PLAINTIFF'S RIGHT TO

FREEDOM OF RELIGION AND TO EXPRESS THAT BELIEF;

(I) DEFENDANTS DENIED PLAINTIFF TO RECEIVE MAILED ARTICLES BY PROMULGATING A "BLANKET POLICY" DENYING INMATES TO RECEIVE ITEMS THROUGH THE MAIL THAT DOES [sic] NOT BEAR NO REASONABLE RELATIONSHIP TO SECURITY NEEDS;

(J) DEFENDANTS DENIED PLAINTIFF TO FREEDOM OF ASSOCIATION AND EXPRESSION BY CREATING A "PUBLISHER ONLY" RULE, AND BY CREATING A RULE THAT IN ORDER FOR INMATES TO RECEIVE SUCH ITEMS, THEY MUST FIRST DONATE IT TO THE STATE;

(K) DEFENDANTS SUBJECTED PLAINTIFF TO EXCESSIVELY LONG PERIODS OF PUNITIVE CONFINEMENT IN DEHUMANIZING STRIP-CELLS;

(L) DEFENDANTS SUBJECTED PLAINTIFF TO DOUBLE CELLING AND WHICH CELLS ARE ALSO INADEQUATELY LIGHTED AND OF WHICH PLAINTIFF WAS CONFINED FOR 17 HOURS A DAY IN MODULE "A";

(M) WHEN DEFENDANTS RETALIATED, CONSPIRED, HARASSED, AND SUBJECTED PLAINTIFF TO RETRIBUTION FOR HIS ACTIVITIES AS A JAIL-HOUSE LAWYER;

(N) DEFENDANTS PROMULGATED AN "ENGLISH SPEAKING ONLY" RULE, THAT DENIED PLAINTIFF HIS RIGHT TO FREEDOM OF SPEECH AND ASSOCIATION, AND EXPRESSION;

(O) DEFENDANTS DISPLAYED A "DELIBERATE INDIFFERENCE" TO PLAINTIFF'S MEDICAL NEEDS BY DENYING HIM PSYCHOLOGICAL AND PSYCHIATRIC TREATMENT WHILE SUBJECTING PLAINTIFF TO THEIR BEHAVIOR MODIFICATION PROGRAM;

(P) DEFENDANTS DENIED PLAINTIFF HIS STATE-CREATED LIBERTY INTEREST TO PARTICIPATE IN EDUCATIONAL, VOCATIONAL, AND COUNSELING PROGRAMS THAT ARE MANDATED BY STATE LAW;

SECOND CAUSE OF ACTION

THE ACTIONS OF DEFENDANTS STATED IN PARAGRAPHS 18 TO 54 DENIED PLAINTIFF HIS FOURTEENTH AMENDMENT RIGHTS.

THIRD CAUSE OF ACTION

THE ACTIONS OF THE DEFENDANTS STATED IN PARAGRAPHS 18 TO 54 VIOLATED STATE LAW, PLAINTIFF ALLEGES THAT THE DEFENDANTS ALSO VIOLATED THE HAWAII STATE CONSTITUTION ARTICLE 1 §§ 2, 3, 4, 9, AND 12, AND 14.

FOURTH CAUSE OF ACTION

THE ACTION OF THE DEFENDANTS STATED IN PARAGRAPH 18 TO 54 VIOLATED STATE LAW, AND THE UNITED STATES CONSTITUTION, TO THE FIRST, FOURTH, FIFTH, SIXTH, EIGHTH, AND FOURTEENTH OF FEDERAL LAW. PLAINTIFF ALSO ALLEGES

DEFENDANTS VIOLATED RULES AND REGULATIONS OF THE CORRECTIONS DIVISION POLICY AND PRACTICES.

RELIEF ASKED

WHEREFORE, PLAINTIFF REQUESTS THIS HONORABLE COURT TO GRANT THE FOLLOWING RELIEF:

(A) ISSUE A DECLARATORY JUDGMENT THAT THE DEFENDANTS POLICIES, PRACTICES, ACT, OMISSIONS, DESCRIBED IN THIS COMPLAINT VIOLATE PLAINTIFF'S RIGHTS TO HIM BY THE FIRST, FOURTH, FIFTH, SIXTH, EIGHTH AND FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND HAWAII STATE CONSTITUTION ARTICLE 1 §§ 2, 3, 4, 9, 12, AND 14.

(B) GRANT COMPENSATORY DAMAGES IN THE FOLLOWING AMOUNTS;

\$175,000.00	DOLLARS AGAINST DEFENDANT THEODORE SAKAI
\$175,000.00	DOLLARS AGAINST DEFENDANT WILLIAM OKU
\$175,000.00	DOLLARS AGAINST DEFENDANT CINDA SANDIN
\$175,000.00	DOLLARS AGAINST DEFENDANT STATE OF HAWAII
\$175,000.00	DOLLARS AGAINST DEFENDANT HAROLD FALK
\$175,000.00	DOLLARS AGAINST DEFENDANT LAURENCE SHOHET

\$175,000.00	DOLLARS AGAINST DEFENDANT LEONARD GONSALVES
\$175,000.00	DOLLARS AGAINST DEFENDANT KIM THORBURN M.D.
\$175,000.00	DOLLARS AGAINST DEFENDANT FRANCIS SEQUEIRA
\$175,000.00	DOLLARS AGAINST DEFENDANT WILLIAM SUMMERS
\$175,000.00	DOLLARS AGAINST DEFENDANT ROBERT JOHNSON
\$175,000.00	DOLLARS AGAINST DEFENDANT GORDON FURTADO
\$175,000.00	DOLLARS AGAINST DEFENDANT ABRAHAM LOTA
\$175,000.00	DOLLARS AGAINST DEFENDANT EDWARD MARSHAL
\$175,000.00	DOLLARS AGAINST DEFENDANT WILLIAM PAAGA
\$175,000.00	DOLLARS AGAINST DEFENDANT BRIAN LEE

(C) GRANT PUNITIVE DAMAGES OF \$50,000.00 DOLLARS FROM EACH DEFENDANT.

(D) GRANT REASONABLE ATTORNEY FEE'S

(E) GRANT INJUNCTIVE RELIEF

(F) GRANT SUCH OTHER RELIEF AS IT MAY
APPEAR THAT PLAINTIFF IS ENTITLED.

RESPECTFULLY SUBMITTED

/s/ DeMont R.D. Conner
DeMONT R.D. CONNER
PRO SE
99-902 MOANALUA HWY.
AIEA, HAWAII 96701

DATED: HONOLULU, HAWAII, SEPTEMBER 6, 1989

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

[Caption Omitted In Printing]

ORDER REGARDING PLAINTIFF'S DISCOVERY
REQUESTS AND OTHER MATTERS

(Filed Nov. 7, 1989)

Plaintiff moved this Court for an order compelling answers to interrogatories. Hearing nothing from the Defendants, this Court ordered that Defendants respond by September 13, 1989 as to why they should not be compelled to answer Plaintiff's apparently valid discovery requests.

Defendants now state that this Court should stay discovery pending ostensibly a motion for summary judgment to test the qualified immunity of Defendants. However, Defendants only make vague references as to when they expect to file this motion; at this juncture, this Court is unwilling to stay valid discovery requests on such an assurance. Therefore, this Court hereby ORDERS that Defendants either file answers to interrogatories or their motion by November 27, 1989.

It is also ORDERED that Defendants file a response to Plaintiff's Motion for Order to Show Cause Why Defendants Should not be Held in Contempt for Violating page 4, paragraph B of the Preliminary Injunction filed on December 2, 1988 on November 27, 1989.

DATED: Honolulu, Hawaii, November 6, 1989.

/s/ Bert S. Tokairin
UNITED STATES
MAGISTRATE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII
[Caption Omitted In Printing]

ANSWER TO AMENDED COMPLAINT

(Filed Nov. 7, 1989)

Come now Defendants in the above-entitled action, through their attorneys, Warren Price, III, Attorney General, State of Hawaii, and Frank D.J. Kim, Deputy Attorney General, and answer the Amended Complaint as follows:

FIRST DEFENSE

The complaint fails to state a claim against Defendants, and each of them, upon which relief can be granted.

SECOND DEFENSE

1. Defendants admit the allegations contained in paragraph 2 of the complaint.

2. Defendants deny the allegations contained in paragraphs 1, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 30, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, and 54 of the complaint.

3. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 27, 29, 31, 32, 33, and 34 of the complaint.

4. Defendants deny all other allegations not expressly admitted herein.

THIRD DEFENSE

Defendants are protected from liability by the doctrine of qualified immunity.

FOURTH DEFENSE

Defendants are protected from liability by the doctrine of sovereign immunity.

FIFTH DEFENSE

This action is precluded for lack of proper service of process and the lack of jurisdiction over Defendants.

SIXTH DEFENSE

This action is barred by the statute of limitations.

WHEREFORE, Defendants pray that the complaint herein be dismissed and that they be allowed their costs, reasonable attorney's fees, and such other relief as the Court deems appropriate.

DATED: Honolulu, Hawaii, November 7, 1989.

/s/ Frank D.J. Kim
FRANK D.J. KIM
Deputy Attorney General
Attorney for Defendants
